

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54918 of 2024

Arising Out of PS. Case No.-298 Year-2023 Thana- BIKRAMGANJ District- Rohtas

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DHIRAJ @ MANMOHAN UPADHYAY SON OF KAMLA KANT
UPADHYAY R/V- VILALGE- SURAJPURA, P.S.- SURAJPURA, DIST.-
ROHTAS

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Om Prakash Upadhyay, Adv.

For the Opposite Party/s : Mr. Shantanu Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 28-08-2024

Heard the parties.

2. The petitioner is apprehending his arrest in connection with Bikramganj P.S. Case No. 298 of 2023 for the offence under sections 341, 323, 307, 379, 427, 504, 506/34 of the I.P.C and section 27 of the Arms Act, lodged on 11.06.2023 by the informant, Kishan Kumar.

3. As per the prosecution story, the informant alleged that when he was on Ara-Bikramganj road and reached near Amit Hotel, the accused persons including the petitioner surrounded him, one Samrat snatched his mobile and threw it on the ground damaging the same. He further snatched the gold chain and also opened fire. The allegation is that Samrat has threatened that if he loses the election, the informant will not remain alive. Further allegation is that in the evening when the



informant was moving along with his friend, Bhola Singh on a motorcycle, again they were surrounded near Mohit Niketan where Samrat opened firing, the informant and his friend managed to escape. However, as the motorcycle was there, they extensively damaged the said motorcycle of Bhola Singh. When his uncle came to their rescue, he was assaulted with knife by Purushottam Kashyap in the stomach and was rushed to Karuna Hospital, Bikramganj. Accordingly, the FIR.

4. Learned counsel for the petitioner submits that his name has come only as an accomplice, specific role has been assigned to Samrat for causing damage to the mobile and opening fire. Subsequently, when the informant and his friend were moving on the motorcycle. So far as the assault on the uncle of the informant is concerned, the same has been assigned to Purushottam Kashyap.

5. The petitioner has no criminal antecedent. The last submission is that without accepting the allegation and/or the outcome of the present petition, in view of the fact that the informant side has alleged damage of motorcycle of one Bhola Singh, the petitioner intends to pay Rs. 5,000/- through Demand Draft issued by the local State Bank of India branch to the submitted before the 'NAZARAT' of concerned court to be



handed over to Bhola Singh after checking the credentials.

6. Learned APP opposes the prayer submitting that on both the occasions, the petitioner was present on the spot.

7. Taking into account the fact that specific allegation is against Purushottam Kashyap and Samrat that the former gave a knife blow to the uncle of informant and the latter threw the mobile on the ground and also opened fire, this petitioner has been named only as an accomplice without any overt act and he has got no criminal antecedent, this Court is inclined to extend him the privilege of anticipatory bail subject to payment of Rs. 5,000/- as undertaken by the learned counsel for the petitioner to be paid by Demand Draft of local State Bank of India to be submitted to the trial court.

8. Let the petitioner, above named, be released on bail in the event of arrest or surrender within a period of four weeks from the receipt of this order, on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of like amount each to the satisfaction of learned Additional Chief Judicial Magistrate, Bikramganj in connection with aforesaid PS Case, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. as well as the following conditions:-

(i) one of the bailors should be the family



member/relative of the petitioner who shall provide official document to show his/her bona fide;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial Court itself;

(iii) the petitioner shall appear before the concerned police station every fortnight for next six months to mark his attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

(Rajiv Roy, J)

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