

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57655 of 2023

Arising Out of PS. Case No.-448 Year-2023 Thana- MALSALAMI District- Patna

MANOJ KUMAR S/O LATE AMBIKA PRASAD RESIDENT OF
MOHALLA PATTAL BAZAR MAROOFGANJ P.S. MALSALAMI
DISTRICT PATNA

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mani Bhushan Kumar, Adv.

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

Mr. Shama Sinha, Adv.

Mr. Saurav Kumar Suman, Adv.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

4 19-01-2024 Heard learned counsels for the parties.

2. The petitioner apprehends his arrest in Malsalami P.S.

Case No. 448 of 2023 registered for the offences punishable under Section 302 of the Indian Penal Code and Section 27 of the Arms Act.

3. The prosecution case, in brief, is that on the basis of the information, the informant along with other officials arrived at the place of occurrence and saw a dead body of a boy aged about 24 years lying there. On being asked, nearby people could not identify the dead body. Seeing the dead body, it appeared that he was shot dead by some unknown criminals.



4. It is submitted by learned counsel for the petitioner that petitioner is quite innocent and has committed no offence. No such occurrence as alleged ever took place. He has been falsely implicated in this case due to ulterior motive. The allegation levelled against the petitioner is totally false and based on concocted facts. He is not named in the FIR. His name has been transpired in the present case merely on the basis of the confessional statement of co-accused Rajesh Goswami. It is further submitted that during the course of investigation, it is found that Sanjit @ Dhela opened fire upon the deceased due to which he died. There is no role of the petitioner in the present case. He further submits that prior to the present case, Pramod Kumar Yadav, with the connivance of police officer-in-charge of Malsalami, looted 300-400 boxes *Kishmis* which were kept in the godown and when the petitioner came to know about the occurrence, went to the Malsalami Police Station to lodge the FIR, but police refused to lodge the FIR. Thereafter, the petitioner filed Criminal Writ No. 193 of 2023 for lodging the FIR, which is also evident from Annexure 2. In the above case, a co-ordinate Bench of this Court passed the order and directed the Senior S.P. to look into the matter and thereafter, Senior S.P. directed officer-in-



charge Malasalami to lodge the F.I.R. against the criminals and recover the looted articles. Thereafter, the FIR was lodged and because of this reason, the police has falsely implicated the petitioner in the present case with mala fide intention. Petitioner has no criminal antecedent as mentioned in para-3 of this application.

5. Learned APP for the State as well as learned counsel for the informant opposes the prayer for bail and submits that there is serious allegation against the petitioner to supply the said pistol to accused Sanjit @ Dhela which was used to kill the deceased. Hence, he does not deserve the privilege of anticipatory bail. Learned counsel for the informant relies upon the judgment of the Apex Court in the case of **Indresh Kumar V/s. The State of U.P. & Anr.**, reported in Criminal Appeal No. 938 of 2022.

6. Considering the facts and circumstances of the case as well as the nature of the offence, I am not inclined to enlarge the petitioner on bail. The prayer for bail of the petitioner is hereby rejected.

7. However, if the petitioner surrenders before the learned Court below within six weeks from today and seeks regular bail, the learned Court below shall pass order on the same day in



accordance with law without being prejudiced by this order
considering the fact that petitioner has no criminal antecedent.

(Anjani Kumar Sharan, J)

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