

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63537 of 2024

Arising Out of PS. Case No.-301 Year-2023 Thana- CHAKIA District- East Champaran

Dewa Gupta Son of Hari Kishore Gupta Resident of Mohalla - Ward No. 18,
Barhai Tola, P.S. - Chhatuni, District - East Champaran (Motihari)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance:

For the Petitioner/s : Mr. Ravindra Kumar, Advocate

For the Opposite Party/s : Mr. Ram Priya Sharan Singh, APP

**CORAM: HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA**

ORAL ORDER

2 27-09-2024 Heard learned counsel for the petitioner as well
as learned Additional Public Prosecutor for the State.

2. The petitioner seeks anticipatory bail in a case registered for the offences punishable under Sections 302 and 120(B) of the Indian Penal Code and Section 27 of the Arms Act in connection with Chakiya P.S. Case No. 301 of 2023.

3. This case has been listed under the heading 'To Be Mentioned' at the instance of learned counsel for the petitioner.

4. As per prosecution case, on 20.08.2023 at about 06:30 AM, the informant along with her son Rajeev Ranjan had gone to Chakia Power House Chowk, in the meantime, co-accused persons Rupesh Singh, Puskar Singh and



two unknown persons came on Apache motorcycle and opened firing upon the son of the informant, due to which, the son of informant sustained gunshot injury and thereafter, the informant ran towards hospital along with his son and his son in dying condition was saying that co-accused Puskar was the nephew of notorious criminal Kunal Singh and ever since Kunal Singh was arrested with AK- 47, by the police, he felt that he was arrested on the instruction of the son of the informant and the informant's son had put up a tender for a contract in Kesariya, due to which, co-accused Rahul Singh, Deva Gupta (petitioner) were angry and they had threatened the son of informant to kill him and as soon as the son of the informant reached Hospital, doctor declared him dead. It is further alleged that at their instance, co-accused persons Rupesh Singh, Pushkar Singh and two unknown persons have committed murder of son of informant by firing on him.

5. Learned counsel for the petitioner submit that petitioner is quite innocent and he has falsely been implicated in this case and has not committed any offence as alleged in the FIR. It is further submitted that due to political rivalry, the petitioner has been made accused in the present case as the wife of the petitioner happens to be the sitting Mayer of Motihari



(District) and the popularity of the petitioner was growing day to day which caused annoyance to the political rivalries and hatched conspiracy along with local administration to tarnish his image. He next submits that the main allegation is that Kunal Singh was inimical term with the informant's son with whom the petitioner has no concern and so far, participating in the tender is concerned, the petitioner is not the bidder in the tender. It is further submitted that the police received information on 20.08.2023 at 6.45 O'clock that the informant's son has been killed by miscreants for which Sanha No. 623 was registered and proceeded for its verification whereas the witnesses who were present at the place of occurrence, said that the informant's son was shot by the two motorcycles borne miscreants. It is further submitted that the alleged occurrence took place on 20.08.2023 at 6.45 AM whereas the F.I.R. was lodged on 21.08.2023 at 9.10 O'clock and there is delay in lodging the FIR which has not been satisfactorily explained by the informant. It is further submitted that the specific allegation of firing upon the deceased is against the co-accused Pushkar Singh and Rupesh Singh and not against the petitioner and the name of the petitioner has been added in the present case with aid of Section 120B of the I.P.C. without iota of evidence of prior meeting of



mind. The name of the petitioner has figured in the present case on the basis of the confessional statement of the co-accused with whom, the petitioner has no concern. Learned counsel for the petitioner submits that petitioner has got 11 criminal antecedents as stated in para-3 of bail petition.

6. Learned A.P.P. for the State has vehemently opposed the prayer for anticipatory bail of the petitioner because it is a case of murder of the deceased. He next submits that petitioner is named in the FIR and there is specific allegation against him that this petitioner was involved in this case and this petitioner along with other co-accused persons under criminal conspiracy have committed the murder of the son of the informant, namely, Rajeev Ranjan by indiscriminate firing. It is pertinent to note here that from perusal of the impugned order, in para – 39, 54, 83 and 94 of the case diary, co-accused persons Rupesh Kumar Singh, Vivek Kumar, Shiv Kumar @ Rajkumar @ Bullet Singh and Pushkar Singh have confessed their involvement as well as involvement of this petitioner in the alleged offence. In para-76 of the case diary, postmortem report of deceased is mentioned, where cause of death is mentioned due to vital injury caused by fire arm. He further submits that petitioner has got 11 criminal antecedents of similar nature:

i. *Kesariya P.S. case No. 260 of 2017 u/s 387*



IPC.

- ii. Kotwa P.S. case No. 107 of 2017 u/s 307/506/357/34 IPC & 27 of the Arms Act.***
- iii. Pipra P.S. case No. 139 of 2017 u/s 307/504/387/34 IPC & 27 of the Arms Act.***
- iv. Pipra P.S. case No. 188 of 2017 u/s 25(1-b) a/26/35 of the Arms Act.***
- v. Chhatauni P.S. case No. 101 of 2012 u/s 341/323/324/379/34 IPC.***
- vi. Raxaul P.S. Case No. 215 of 2017 u/s 387/307/120B/34 IPC & 27 of the Arms Act.***
- vii. Raxaul P.S. Case No. 216 of 2017 u/s 387/307/120B/34 IPC & 27 of the Arms Act.***
- viii. Motihari Town P.S. Case No. 207 of 2017 u/s 224/225/1208/216/216A IPC.***
- ix. Economic offence Case No. 01 of 2015 u/s 420/467/468/471/409/120B IPC & 81(1) (C)/81(2)/81(4) of the Bihar VAT Act.***
- x. Gobindganj P.S. Case No. 455 of 2020 u/s 394/336/341 IPC & 27/35 of the Arms Act.***
- xi. Chakiya P.S. Case No. 345 of 2017.***

7. Learned APP for the State lastly submits that petitioners at this stage cannot be granted anticipatory bail as investigation against the petitioner is still going on and proper investigation and interrogation under police custody is required



in this case and the materials available on the record do not reveal any exceptional or rare case due to which the plea of anticipatory bail may be considered.

8. On perusal of FIR, postmortem report, and impugned order dated 13.08.2024, it appears that petitioner is named in the FIR and there is specific allegation against him that this petitioner along with other co-accused persons under criminal conspiracy have committed the murder of the son of the informant, namely, Rajeev Ranjan by indiscriminate firing. It is pertinent to note here that from perusal of impugned order, in para – 39, 54, 83 and 94 of the case diary co-accused Rupesh Kumar Singh, Vivek Kumar, Shiv Kumar @ Rajkumar @ Bullet Singh and Pushkar Singh have confessed their involvement as well as involvement of this petitioner in the alleged offence and in para-76 of the case diary, postmortem report of deceased is mentioned, where cause of death is due to vital injury caused by fire arm. As per para 3 of anticipatory bail petition, petitioner has got 11 criminal antecedents of serious nature and as the investigation against the petitioner is still going on and proper investigation and interrogation under police custody is required in this case. So, considering all the facts and circumstances of the case, including nature of allegation, gravity of offence,



dying declaration of the deceased and criminal antecedent of the petitioner, I am not inclined to grant anticipatory bail to the petitioner.

9. Accordingly, the prayer for anticipatory bail of the above-named petitioner is hereby rejected.

(Ramesh Chand Malviya, J)

Brajesh Kumar/-

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