

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65546 of 2023

Arising Out of PS. Case No.-76 Year-2023 Thana- NADI P.S. District- Patna

Ram Pravesh Rai @ Nirala, (Male), aged about 50 years, S/O- Late Sitab Lal Rai @ Late Sital Rai, R/O Village- Jethuli, P.S.- Nadi, Dist- Patna.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner	:	Mr. Ghanshyam Tiwary, Advocate
For the Informant	:	Mr. Dharendra Kumar Sinha, Advocate
For the State	:	Mrs. Pushpa Sinha 1, A.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

5 08-01-2024 Heard learned counsel for the petitioner, learned counsel for the informant and learned A.P.P. for the State.

2. The petitioner is apprehending his arrest in connection with Nadi P.S. Case No. 76 of 2023 dated 20.02.2023 registered for the offences punishable under Sections 147, 148, 149, 342, 448, 302, 307, 506 of the Indian Penal Code and Section 27 of the Arms Act.

3. As per the prosecution case, on 19.02.2023 at about 11.00 A.M., while the informant's nephew, namely, Bittu Kumar, was going towards his home from his four wheeler, the people of the co-accused Ramesh Rai obstructed his way by putting stones, chips and sand. They do illegal business of sand on the direction of the co-accused Ramesh Rai. His nephew



requested the co-accused Ramesh Rai and Satish Rai @ Bachha Rai to remove the obstruction. Bachha Rai and his family members, who are notorious, got violent and on the order of the co-accused Umesh Rai, who is the mafia of land and ganja, 30 named and 15-20 unknown accused persons started firing indiscriminately from rifle, pistol and countrymade katta. His nephew anyhow escaped, then, these people attacked his house. The co-accused Umesh Rai said that Chanarik and Munarik's families always cause trouble in our work and exhausted to kill the entire family. In the meantime, the co-accused Umesh Rai, Bachha Rai, Satyendra Rai, Ram Pravesh Rai (petitioner) and their family members, with an intention to kill, started firing due to that, Gautam Kumar, Raushan Kumar, Nagendra Rai, Munarik Rai and Chanarik Rai sustained bullet injuries. Having been shot, Gautam Kumar and Raushan Kumar died on the same day and Munarik Rai died the next day in course of treatment at P.M.C.H., Patna. Nagendra Rai and Chanarik Rai are still under treatment at P.M.C.H., Patna and struggling for their lives.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. It is submitted that there is general and omnibus



allegation against the petitioner and others. It is submitted that Nadi P.S. Case No. 74 of 2023 was registered against Goldie @ Gaurab Yadav and others under Sections 147, 148, 149, 120B, 392, 307, 355, 427 and 436 of the I.P.C. and Section 27 of the Arms Act. It is further submitted that Nadi P.S. Case No. 78 of 2023 and Nadi P.S. Case No. 75 of 2023 have been registered against the family members of the informant and others, annexed as Annexures- 2 and 3 to the bail application. It is further submitted that from perusal of the F.I.R., it appears that there is no specific allegation to show that the F.I.R. named accused persons shot the deceased. Hence, no case under Section 302 and other allied Sections of the I.P.C. is made out against the petitioner. It is further submitted that the anticipatory bail application has been filed before the learned court below on 27.04.2023. The petitioner has three criminal antecedents and in all cases, he is on bail, as stated in paragraph no. 3 of the bail petition. Learned counsel for the petitioner has submitted that the anticipatory bail application is maintainable even after issuance of the process under Section 82 of the Cr.P.C. Learned counsel for the petitioner has further relied upon the case of *(Santosh Yadav @ Santosh Kumar Vs. The State of Bihar, Cr. Misc. No. 38750 of 2021 arising out of P.S. Case No. 191 year-*



2021, Thana-Bahadurpur, District-Darbhanga) disposed of on 04.07.2022) where the Hon'ble Patna High Court has held that: *“anticipatory bail application is maintainable even after issuance of process under Section 82 of the Cr.P.C. though the accused on merits may not be entitled to seek relief based on his conduct leading to issuance of process under Section 82 but then definitely maintainability of an anticipatory bail application after issuance of process under Section 82 is definitely not barred.”*

5. Learned A.P.P. for the State and learned counsel for the informant have vehemently opposed the prayer for anticipatory bail of the petitioner because it is a case of four murder. It has been submitted by learned counsel for the informant by filing a counter affidavit on behalf of the informant that the proclamation was executed on 07.05.2023 against the petitioner under Section 82 of Cr.P.C. and despite that, the petitioner has not appeared before the Investigating Officer and the petitioner has filed the present anticipatory bail application for grant of anticipatory bail on 25.09.2023 after issuance of the proclamation under Section 82 of Cr.P.C. against the petitioner. It is further submitted by learned counsel for the informant that a reward of Rs. 50,000/- has also been announced



for the arrest of the petitioner and other absconders in the present case by the Home Department, Bihar, Patna, vide Memo No. 12227/Patna dated 10.10.2023 through the Senior Superintendent of Police, Patna, annexed as Annexure-R/7 to the 2nd counter affidavit filed on behalf of the informant. In the said 2nd counter affidavit, it has been submitted that in paragraph nos. 78 and 79 of the supplementary case diary, the witnesses have stated under Section 161 of Cr.P.C. that the petitioner fired on Nagendra Rai who is the father of Raushan Kumar (deceased). It is further submitted by learned counsel for the informant that in course of investigation, the co-accused Satyendra Rai, who is the full brother of the petitioner and others committed murder of Nikhil Kumar, the nephew of Chanarik Rai (deceased), for which Nadi P.S. Case No. 150 of 2023 has been lodged on 27.04.2023. Learned counsel for the informant has further relied upon the case of (***Abhishek Vs. State of Maharashtra (2022)14 SCC 529***) where it was held that “*As regards the implication of proclamation having been issued against the appellant, we have no hesitation in making it clear that any person, who is declared as an ‘absconder’ and remains out of reach of the investigating agency and thereby stands directly at conflict with law, ordinarily, deserves no*



concession or indulgence.” Reliance has further been placed on the decisions of *(Lavesh V. State (NCT of Delhi) (2012) 8 SCC 730, Adri Dharan Das V. State of W.B.(2005) 4 SCC 303)* and *(Prem Shankar Prasad V. State of Bihar 2021 SCC Online SCC 955)* and in the case of *(State of Haryana Vs. Dharamraj (Cr. Appeal No. 2635 of 2023 @ out of SLP (Cri.) No. 2256 of 2022, reported in 2023 LiveLaw (SC) 739: 2023 INSC 784)* disposed of 29.08.2023 wherein the Hon’ble Apex Court has held that: *“Anticipatory bail can be granted to a person to a proclaimed offender only in exceptional and rare case.”* It is further submitted that 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.

6. Considering the aforesaid facts and circumstances of the case as well as the petitioner having been declared a proclaimed offender, the anticipatory bail petition is not maintainable. Accordingly, the same is disposed of with a direction to the petitioner to surrender before the learned court below within a period of eight weeks from the date of receipt/production of a copy of this order and the learned court below may consider the prayer for regular bail in accordance with law and on its own merits without being prejudiced of the



order of this Court in connection with Nadi P.S. Case No. 76 of 2023, pending in the court of learned J.M. F.C. Patna City, Patna.

7. Accordingly, the anticipatory bail application of the petitioner stands disposed of.

(Chandra Prakash Singh, J)

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