

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73730 of 2023

Arising Out of PS. Case No.-64 Year-2022 Thana- MEHANDIGANJ District- Patna

1. Mukesh Kumar @ Mukesh Sharma
2. Aman Kumar
Both Son Of Tuntun Mistry @ Shivnath Sharma @ Shiv Nath Sharma
Resident Of Mohalla- Bhaishani Tola, P.S.- Malsalami, District-Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Arvind Kumar Pradhan, Advocate
For the Opposite Party/s	:	Mr.Syed Mojibur Rahman,APP
For the Informant	:	Mr. Binod Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 29-02-2024 After some argument, learned counsel for the petitioners seeks permission to withdraw this anticipatory bail application with respect to petitioner No.1, namely, Mukesh Kumar @ Mukesh Sharma.

2. Permission is accorded.

3. Accordingly, this anticipatory bail application stands dismissed as withdrawn with respect to petitioner No.1, namely, Mukesh Kumar @ Mukesh Sharma.

4. Heard Mr.Arvind Kumar Pradhan, learned counsel for the petitioner No.2, Mr. Binod Kumar, learned counsel for the informant and Mr.Syed Mojibur Rahman,learned Additional Public Prosecutor for the State.



5. Petitioner No.2 is apprehending his arrest in connection with Mehandiganj P.S.Case No.64 of 2022, FIR dated 17.04.2022 registered for the offences punishable under Sections 302,120(B),506,34 of the Indian Penal Code and Section 27 of the Arms Act.

6. The prosecution case in short is that the petitioner alongwith other co-accused persons opened fire from their pistol to Chinta Devi on account of which she died on the spot.

7. Learned counsel for the petitioner submits that petitioner has clean antecedent and he has falsely been implicated in the present case and from a bare perusal of the FIR it appears that there is direct allegation of firing attributed against co-accused persons, namely, Suraj Kumar and Mukesh Kumar and allegation against the petitioner is that he also fired in the air and nothing has come during investigation to suggest that petitioner No.2, namely, Aman Kumar has fired upon the victim, although he was present at the place of occurrence and it is admitted position that due to admitted land dispute the present occurrence had taken place.

8. Learned counsel for the informant and learned A.P.P. for the State, on the other hand, have vehemently opposed the prayer for anticipatory bail of the petitioner and



submits that there is specific allegation against the petitioner that he is also present at the time of occurrence and he has fired and four empty cartridges were found at the place of occurrence.

9. Considering the aforesaid facts, petitioner has clean antecedent and as per FIR there is no specific allegation of firing upon the victim against the petitioner, let petitioner No.2, namely, Aman Kumar, in the event of his arrest or surrender before the court below within a period of thirty days from the date of receipt of the order, be released on bail on furnishing bail bond of Rs.10,000 (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate-1st Class, Patna City, Patna in connection with Mehandiganj P.S.Case No.64 of 2022, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions:-

(I) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on his/her absence on two consecutive dates without sufficient reason, his/her bail bonds shall be cancelled by the Court below.

(II) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move



for cancellation of bail.

(III) And, further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his/her criminal antecedents, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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