

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1397 of 2024

Arising Out of PS. Case No.-46 Year-2024 Thana- PAROO District- Muzaffarpur

Sunil Kumar Son of Baleshwar Yadav Resident of Village - Hirapur, P.S. - Paroo, District - Muzaffarpur - 843122

... .. Petitioner/s

Versus

1. The State of Bihar through The Director General of Police, Govt. of Bihar Sardar Patel Bhawan, Jawaharlal Nehru Marg, Patna - 800023
2. The Inspector General of Police, Tirhut Division, Company Bagh Road, Muzaffarpur Head Office Muzaffarpur - 842001
3. The Deputy Superintendent of Police (West), Company Bagh Road, Muzaffarpur, Bihar 842001 Bihar
4. Inspector-In-Charge of Paroo P.S., Paroo Police Station, Muzaffarpur - 843122 Bihar
5. The Station House Officer, Paroo Police Station, Muzaffarpur - 843122 Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mrs. Nivedita Nirvikar, Sr. Advocate Ms. Supragya, Advocate Mrs. Shashi Priya, Advocate Mr. Arya Achint, Advocate Mrs. Asmita Bharti, Advocate
For the Respondent/s	:	Mr. P.K. Shahi, Advocate General Mr. Manoj Kumar Ambastha-S.C 26 Mr. Tripurari Nath Ambastha, AC to SC-26 Mr. Santosh Kumar Mishra, AC to SC-26 Mr. Divit Vinod, AC to SC-26

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

6 16-01-2025 The informant of Paroo P.S. Case No.46 of 2024 dated 15.02.2024 under Sections 147, 148, 149, 302, 427, 120B, 504, 506 I.P.C. and Section 27 of the Arms Act has approached this Court under constitutional writ jurisdiction for the following reliefs:-

i. For a direction upon the State



Respondents to conduct a proper, fair and impartial investigation in connection with Paroo P.S. Case No.46 /2024 dated 15.02.2024 for murder of the petitioner's brother and nephew.

ii. For a direction upon Investigating Officer to hold scientific investigation expeditiously by examining the CCTV footage from cameras fixed at Petitioner's shop and nearby areas and post-mortem report.

iii. For a direction upon the Respondent to take appropriate action against the accused person who is moving scot-free and threatening the petitioner and his family members of dire consequences.

iv. For restraining the accused person from entering any of the premises of the petitioner in the interest of safety to his life and property.

v. Any other order/orders for which the petitioner is found entitled to in the facts and circumstances of the present case.

2. Indisputably, in the night of 14.02.2024 an incident of Arson and murder took place at Mugarhiya Chowk within Paroo police station. The informant scheduled 15.02.2024 the date for inauguration of a shop at Mugarhiya Chowk and in the said night of occurrence, the brother and nephew of the informant were staying in the shop.



3. As per the F.I.R. some unknown persons damaged the said shop by fire and the brother and nephew of the informant were murdered. On the basis of the said complaint, police registered the above-mentioned case and took up the same for investigation, during investigation they arrested one Vivek Kumar and had shown one Vicky Kumar arrested in connection with this case from another case, while he was in custody in Hariyana. The F.I.R. maker made several statements that one Sanjay Sahni was inimical against the F.I.R. maker and his family members, the said Sanjay Sahni previously threatened the informant and his family members with dire consequence, if they wanted to open a shop at Mugarhiya Chowk. The CCTV footage of the said shop allegedly confirmed the presence of the said Sanjay Sahni around the place of occurrence. The informant also prayed for CDR and Tower Location Information of one of the phone numbers of the said Sanjay Sahni.

4. The Investigating Officer did not take any action against the said Sanjay Sahni, it is alleged by the petitioner that the police authority has been continuing the investigation in a perfunctory manner to save the real culprit and therefore, he has filed a protest petition before the Court of the learned Magistrate



also. Now by filing the instant writ petition, the petitioner has prayed for certain direction upon the police authority so that the investigation of the case be properly made by the Police Officer.

5. Today counter affidavit has been filed on behalf of the respondents.

6. The learned Advocate General has referred specially to paragraph Nos. 6 and 7 of the said counter affidavit, it is stated in paragraph No.6 of the counter affidavit on behalf of the respondents that on the basis of the materials collected during the course of investigation, provision, progress report and report-2, the case was found to be true against non F.I.R. named accused Vivek Kumar son of Ram Prawesh Rai, Vivek Kumar son of Nitesh Singh, Vicky Kumar son of Santosh Chaudhary and other unknown and a decision has been taken to conduct deep investigation to ascertain the complicity of F.I.R. named accused Sanjay Sahni in the commission of the offence. It is also stated by the respondents that during investigation of the case, statement of Vivek Kumar son of Ram Prawesh Rai was recorded under Section 164 of the Cr.P.C. and in his confessional statement he did not mention involvement of Sanjay Sahni in the instant case.

7. The Superintendent of Police, Rural, Muzaffarpur



and S.H.O.-cum-Investigating Officer, Paroo Police Station are physically present in Court.

8. The Court asks the Superintendent of Police, Rural, Muzaffarpur as to whether he directed the Investigating Officer to issue notice under Section 160 of the Code of Criminal Procedure to the said Sanjay Sahni to interrogate him and to try to find out as to whether any incriminating material would reveal or not. The Superintendent of Police, Rural, Muzaffarpur in unequivocal term admitted that he does not know the provision contained in Section 160 of the Cr.P.C. This Court fails to understand as to why the police authority did not take recourse to issue notice upon a suspect to interrogate his involvement. On the part of the Investigating Officer, it is contended by the learned Advocate General that the wife of Sanjay Sahni made a statement before the police in writing that on the date of occurrence the son of Sanjay Sahni was admitted to some hospital and Sanjay Sahni was present through out the night, on which date the alleged incident took place in the hospital. Therefore, his presence at the scene of occurrence is an impossibility.

9. I do not find any other document in the counter affidavit or in materials on record that the statement of the wife



of the said Sanjay Sahni was actually verified by the Investigating Officer to ascertain its truthfulness.

10. The informant gave one mobile number of accused Sanjay Sahni and other materials. It is the specific case of the informant that there is long standing enmity between the family of the petitioner and Sanjay Sahni and the accused previously threatened him with dire consequence. This part of allegation has not been examined by the Investigating Officer.

11. This Court is not unaware to note that the Court cannot direct the Investigating Officer or the Police Authority at-large as to how the Investigation should proceed. But at the same time, the Court has the power to go through the case diary and other documents to monitor the course of investigation. Taking recourse of the said limited power of the Constitutional Court, the Investigating Officer Paroo P.S. Case No.46 of 2024 is directed to examine the materials submitted by the informant concerning his apprehension of involvement of Sanjay Sahni during the course of investigation.

12. The Superintendent of Police, Rural, Muzaffarpur is directed to monitor the investigation properly to arrive at a logical conclusion in accordance with law.

13. The instant writ petition is accordingly, disposed



of.

14. The personal appearance of Superintendent of Police, Rural, Muzaffarpur and S.H.O.-cum-Investigating Officer, Paroo Police Station are dispensed with.

(Bibek Chaudhuri, J)

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