

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73121 of 2024

Arising Out of PS. Case No.-346 Year-2024 Thana- KANTI District- Muzaffarpur

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Pawan Shriwastav @ Pawan Kumar S/o Late Pramod Prasad R/o Village-
Miyan Pakdi, P.S.- Kanti, District- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Onkar Nath, Adv

For the Opposite Party/s : Mr. Chandra Bhushan Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

5 04-04-2025 1. Heard learned counsel for the petitioner and
learned A.P.P. for the State, Shri Chandra Bhushan Prasad.

2. The petitioner apprehends his arrest in a case
registered for the offences punishable under Sections 109, 238,
61(2), 3(5) of the Bharatiya Nyaya Sanhita and Sections 26, 27,
35, 25(1-B)a of Arms Act.

3. The SHO and the Investigating Officer of the case,
in compliance of the order dated 22-3-2025, are present in the
Court.

4. The learned counsel for the petitioner submits that
petitioner has antecedent of one case and is own brother of the
injured. It is further submitted that from perusal of the
allegation as alleged in the FIR, it would manifest that the
informant, who is wife of the injured, alleges that on 14-7-2024,



her husband received a call on his mobile and thereafter he left the house saying that he is going to the *haweli*, further at 8:00 PM, the mother-in-law of the informant informed that her husband has received fire-arm injury and has been admitted in Maa Janki Hospital, accordingly the informant along with her elder sister-in-law, Soni Kumari, wife of Ratnesh Kumar Srivastava, came to Maa Janki Hospital, where she came to know that her husband received fire-arm injury near the house of Pawan Shrivastav (petitioner), younger brother of her husband, further that Pawan Shrivastav brought her husband to the hospital, but then he is not present in the hospital, further that haweli is the house of Pawan Shrivastav, which is his property. It is next alleged that her husband was referred for better treatment to Paras Hospital, Patna.

5. Learned counsel appearing on behalf of the petitioner next submits that from perusal of the allegations as alleged in the FIR, it would manifest that informant alleges that her husband received a call and thereafter he went to the house of his brother (Pawan), where he received fire-arm injury and accordingly her mother-in-law informed her about the occurrence when the informant went to the hospital along with her elder sister-in-law and came to know that it was this



petitioner, who had brought her husband to the hospital, but then the petitioner was not present in the hospital, as such it is submitted that no suspicion has been raised against this petitioner of committing the occurrence. It is further submitted that had the petitioner committed the occurrence, in that event, he would not have brought his brother to the hospital for treatment fearing that if he survives, in that event, the petitioner would be implicated. It is next submitted that the statement of the injured, i.e., brother of the petitioner, was also recorded under Section 180 of the BNSS, wherein he has stated that he went to the house of his brother, where his brother along with other named persons were sitting from before and were consuming liquor, when two unknown persons entered the house wearing helmet and fired causing injury to him. It is thus submitted that even the injured has not even remotely suggested that it was this petitioner who committed the occurrence or got the occurrence committed nor has raised any suspicion even.

6. Learned counsel appearing on behalf of the petitioner next submits that the instant FIR came to be instituted based on the fardbayan of the wife of the injured on 15-7-2024 in the night and on the same day, the police in the night raided the premises of the petitioner and his wife was arrested. It is



further submitted that on 15-7-2024, the police seized bed-sheet, etc, but on 16-7-2024 another seizure memo was prepared; and in the said seizure memo, it is recorded that magazine of a pistol was recovered. It is also submitted that it absolutely does not stand to reason that if the police had raided the premise of the petitioner on 15-7-2024 on that day apart from bed-sheet, etc, nothing was recovered, as such, it appears that the Magazine, which is alleged to have been shown to be recovered, has been shown only to give seriousness to the case, as from the magazine it cannot be proved that the injured received fire-arm from a gun of which the magazine was recovered.

7. The learned APP, Shri. Chandra Bhushan Prasad, opposes the anticipatory bail application and submits that no doubt from perusal of the allegation as alleged in the FIR, it would manifest that informant has not raised any suspicion against this petitioner nor the injured in his statement recorded under Section 180 BNSS has alleged that it was this petitioner who shot him, but then submits that petitioner has been made an accused during the course of investigation, it is next submitted that police had no enmity with the petitioner but the material, which transpired during the course of investigation, pointed



fingers towards the petitioner. It is further submitted that the wife of the petitioner in her confessional statement, has stated that her husband along with others accused persons were sitting in the house, when the injured also came and she was inside the house and on hearing firing of gun, she rushed to the guest room where she saw that the injured was shot and her husband was carrying pistol and the petitioner directed her to remove the blood stain and to change bed-sheet and further to conceal the weapon used in the occurrence, on which learned counsel appearing on behalf of the petitioner submits that if the wife of the petitioner, on direction of the petitioner, had concealed the weapon, then why the weapon has not been recovered till date, which amply demonstrates that the wife of the petitioner was made to confess about the participation of her husband in the crime, when neither the informant nor the injured is supporting the involvement of the petitioner in the occurrence.

8. Learned APP also submits that if the privilege of anticipatory bail is granted to the petitioner, the petitioner may abscond, on which the learned counsel appearing on behalf of the petitioner submits that petitioner will not abscond rather will cooperate in the investigation and will present himself as and when required by the Investigating Officer of the case to



establish his innocence.

9. Considering the submissions made by the learned counsel for the petitioner, the petitioner above-named, in the event of his arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 50,000/- (Rupees Fifty Thousand) with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Kanti P.S. Case No. 346 of 2024, subject to the conditions as laid down under Section 482 (2) of the BNSS.

10. One of bailors of the petitioner shall be his cousin brother (Mausera Bhai), Chandra Mohan Kumar.

11. However, it is made clear that in the event, if the Investigating Officer of the case files an application before the learned trial court bringing to its notice that the petitioner, despite giving assurance to this Court, is not cooperating in the investigation or is not presenting himself as and when required, the learned trial court shall be at liberty to forthwith cancel the bail bonds of the petitioner.

12. Let a copy of this order be sent to the concerned police station through the learned Trial Court.



13. The personal appearance of the SHO and the Investigating Officer of the case is dispensed with.

(Satyavrat Verma, J)

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