

In the Court of Addl. Sessions Judge-III, East Champaran, Motihari.**Sessions Trial No.- 230/2024****Present: -****Sanjay Kumar-III**Addl. District & Sessions Judge-III,
Motihari, East Champaran.**Rupesh Singh** **Applicant****Versus****State** **Opposite Party****Date of Order: 25.07.2024****ORDER**

1. A petition u/s 227 of Cr. P.C. has been filed on behalf of the accused Rupesh Singh praying therein to discharge him from the criminal charges u/ss 302, 120-B IPC and 27 Arms Act. Rejoinder was not filed by the ld. Addl. P.P. but he has opposed the petition.

2. According to the Ld. Defence Counsel the petitioner is quite innocent and has committed no offence as alleged, that he has been falsely implicated in this case. The aforesaid case has been instituted against the petitioner on the basis of FIR lodged by Kishori Devi suspecting the complicity of the petitioner in the murder of her son whose dead body was found lying on 20.08.2023 at 6:30 am. The evidence of the above witness was recorded under section 161 Cr. P.C. On the perusal of their statement, so, recorded, it will appear that witnesses have simply expressed their suspicion for the involvement of the petitioner on account of previous enmity. All the witnesses who were examined do not support the case of the prosecution. The mandate of Section 227 Cr. P.C. also absolves the petitioner from the charges as alleged. So, it was prayed that the accused person be discharged from this criminal offence.

The Ld. Addl. P.P. has submitted that there are sufficient material available on the record to frame charges against the accused persons hence, the petition is fit to be dismissed.

3. **Section 227 Cr. P.C. states:-** If, upon consideration of the record of the case and the documents submitted therewith and after hearing submissions of the accused and the prosecution in this behalf the judge considers that there is no sufficient ground for proceeding against the accused, he shall discharge the accused and record is reasons.

The Hon'ble Supreme Court and the Hon'ble High Courts have held that while dealing with provision of Section 227 Cr. P.C. the court has to inquire that there are materials available on record which if not reverted could lead the conviction of the accused. A simple and necessary inquiry is required that whether a case is made out and to consider a broad probability about the genuineness of the allegation. So, it's quite clear that while considering the hearing on framing of charge or to decide the discharge application the court has not to go in the depth of evidences. Instead the court has to consider that if the statements or material available on record if not rebutted would lead to conviction.

4. In the backdrop of the provisions laid down, this court finds that the prosecution case is that on 20.08.2023 at about 6:30 am informant and her son were going to vegetable market, Chakia Power House Chauk, Chakia. In the meantime an Apache motorcycle with four person came and asked about Rajeev Bhaiya's house. Her son identified two of them as Pushkar Singh and Rupesh Singh and said that he is Rajeev then Pushkar Singh shot him, when informant run to save him again Pushkar Singh and Rupesh Singh shot him. On the sound of second gun shot people gathered and informant took her injured son to the hospital. Due to gun shot injury blood started oozing out. When the informant reached at the hospital doctors declared her son as dead. According to informant her son was killed due to filing of tender. Accused Kunal Singh and other accused persons threatened her son to kill if file the tender.

It is a settled principle of law that while framing of charges u/s 227 Cr. P.C the court has not to look into the details of the evidences available on the record and if there are material evidences available on record which shows strong and grave suspicion and if the same are not rebutted would lead to conviction, are the sufficient ground to frame charges. What is required is a simple and necessary inquiry to asses the broad probability. In para 50 of the case diary it has come that petitioner has transferred some amount to other accused. This court finds that there are sufficient material available on record to frame charges against the accused u/ss 302, 120-B IPC and 27 Arms Act. In the present case there are preliminary evidence that petitioner Rupesh Singh has enmity with regard to tender and had been identified by the deceased.

5. For the reasons stated above there are sufficient material available on the record to frame charges against the accused Rupesh Singh u/s 302, 120-B IPC and 27 Arms Act. Accordingly, this court finds no merit in the petition u/s 227 of Cr. P.C., accordingly petition is dismissed.

Put up for framing of charges.

(Dictated)

Sd/-

(Sanjay Kumar-III)
Addl. District & Sessions Judge-III,
Motihari, East Champaran.