

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.30060 of 2015

Arising Out of PS.Case No. -220 Year- 2014 Thana -SIWAN CITY District- SIWAN

1. Md. Shahabuddin Son of S M Hasibullah, R/o Village - Pratapur, P.s. - Hussainganj, District - Siwan.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

with

Criminal Miscellaneous No.35142 of 2015

Arising Out of PS.Case No. -220 Year- 2014 Thana -SIWAN CITY District- SIWAN

1. Chandan Chaudhary Son of Late Laxman Choudhary, resident of Dakhin Tola Siwan, District -Siwan.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

Appearance :

(In Cr.Misc. No.30060 of 2015)

For the Petitioner/s : Mr. Anuj Kumar

For the Opposite Party/s : Mr. Shyameshwar Dayal(App)

(In Cr.Misc. No.35142 of 2015)

For the Petitioner/s : Mr. Ganjendra Kumar Singh

For the Opposite Party/s : Mr. Sanjay Kumar Tiwary (App)

CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA

ORAL ORDER

11 03-02-2016 Both the Criminal Miscellaneous are of the same occurrence and as such have been heard together and are being disposed of by passing this common order.

Heard the learned counsel for the petitioners as well as the learned A.P.P for the State.

The petitioners seek bail in a case for the offences

punishable under sections 302/34 and 120B of the I.P.C and section 27 of the Arms Act.

The petitioner Md. Shahabuddin is named in the FIR with the allegation that he conspired with the co-accused and got killed Rajeev Roshan, the son of the informant, by his son Osama and two unknown as Rajeev Roshan was eye witness in Mahadeva Muffasil P.S. Case No. 131 of 2004 and the petitioner Md. Shahabuddin had threatened him not to depose in the case but he was adamant to depose. During investigation it transpires that the petitioner Md. Shahabuddin in collusion and conspiracy got killed the deceased with the aid and assistance of co-accused Chandan Chauhary and others.

Submission is of false implication, the petitioner Md. Shahabuddin admittedly was in jail custody at the relevant time, nothing has come during investigation that how the petitioner Md. Shahabuddin conspired with other co-accused, the investigating agency has not found the hand of son of the petitioner Md. Shahabuddin, the informant appears not an eye witness which is evident from paragraphs- 1 and 4 of the case diary as he was not present when the police reached at the place of occurrence and took away the son of the informant, who was injured, to the hospital, the petitioner Md. Shahabuddin is suffering in custody since 27.11.2014 but his case has not been committed as yet



though charge sheet has already been submitted. On behalf of Chandan Chaudhary it is submitted that against him the statement of spy has come regarding his involvement in the crime and further thereafter some of the witnesses have come to say that they have seen the petitioner Chandan Chaudhary and other co-accused at the place of occurrence before the crime and further in the supplementary case diary it has come that the petitioner Chandan Chaudhary was talking with the co-accused that they have done their job by eliminating Rajeev Roshan but they have not been paid the amount which was agreed and these statements appear after thought and only manipulation of the police and as such he also deserves sympathetic consideration as he is suffering in custody since 12.01.2015.

The learned A.P.P. opposes prayer for bail by submitting that the petitioner Md. Shahabuddin is named in the FIR and further during investigation also it has come that under his conspiracy Rajeev Roshan, the son of the informant, was killed only with a view to destroy the evidence so that he may not be able to depose in Mahadeva Muffasil P.S. Case No. 131 of 2004 and further the petitioner Chandan Chaudhary and other co-accused were seen before the occurrence at the place of occurrence in suspicious condition and further Chandan Chaudhary was talking that he had finished his job by killing Rajeev Roshan but he had not been

paid the agreed amount. The learned A.P.P. referred paragraphs- 25, 205, 309, 337, 338 and 354 of the main case diary as well as paragraphs- 4, 5 and 6 of the supplementary case diary and has submitted that petitioner Chandan Chaudhary has got criminal antecedent as he is involved in six more cases. The learned A.P.P. also submits that if the petitioners will be released then they will destroy the evidence by eliminating the witnesses.

In the facts and circumstances as stated above, considering the materials available in the case diary against the petitioners, at present this Court is not inclined to enlarge the petitioners on bail and accordingly their such prayer stands rejected in connection with Siwan (Town) P.S. Case No. 220 of 2014 pending in the court of C.J.M. Siwan.

The learned Magistrate is directed to expedite the commitment of the case and thereafter the learned trial Judge shall take all positive steps to conclude the trial as early as possible preferably within nine months after receipt of the records in the Sessions Court.

(Jitendra Mohan Sharma, J)

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