

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.27350 of 2016

Arising Out of PS.Case No. -806 Year- 2015 Thana -KANKARBAGH District- PATNA

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Shankar Rai son of Tarkeshwar Rai resident of Azad Path, Gali No. 5,
Chandmari Road, Police Station - Kankarbagh, District Patna.

.... Petitioner

Versus

The State of Bihar.

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Sunil Kumar Pathak

For the Opposite Party : Smt. Sucheta Yadav

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

5 21-09-2016 Show-cause has been filed on behalf of the counsel for the petitioner and on behalf of the Pairvikar. It has been stated that due to inadvertent mistake on their part, two cases, in which, the petitioner was an accused could not be stated in para-3 of the application.

Reply to show cause has also been filed on behalf of informant.

Considering the aforesaid facts and circumstances, the show-cause filed on behalf of counsel for petitioner and pairvikar is accepted.

Heard learned counsel for the petitioner, learned counsel for the informant and learned counsel for the State.

The petitioner seeks bail in a case instituted under

Sections 302, 120(B)/34 of the Indian Penal Code and Section 27 of the Arms Act.

The allegation against the petitioner is that he along with other co-accused persons opened fire on the brother of the informant, causing injury upon the back portion of his head and thereafter he was taken to hospital, where the doctor declared him to be dead.

As far as merit of this case is concerned, it has been submitted on behalf of the petitioner that the petitioner is in custody since 29.03.2016. The charge sheet has been submitted in the present case. There is no allegation of tampering of witnesses alleged against the petitioner. A general and omnibus allegation has been made against the accused persons including the petitioner, for making firing, at the time of occurrence. From perusal of the postmortem report, it is evident that there is only one firearm shot injury on the body of the deceased. From perusal of para-24, 30 and 31 of the case diary, it appears that the specific allegation has been made against co-accused Pramod Rai, who is said to be the order giver and Chhotu Rai, who is alleged to have fired upon the deceased. So far as this petitioner is concerned, no specific allegation of causing injury upon deceased is alleged against him. The other co-accused having similar allegation has

been granted bail vide Cr. Misc. No. 23380 of 2016. It is further submitted that the petitioner may be released after completion of 9 (Nine) months in custody i.e. from 29.03.2016.

On behalf of the state and the counsel for the informant it has been submitted that the petitioner is named in the F.I.R. and has participated in the alleged occurrence.

Considering the aforesaid facts and circumstances, let the petitioner above named, be released on bail after completion of 9 (Nine) months in custody i.e. from 29.03.2016, on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the Court of Smt. Smita Roy, Judicial Magistrate, 1st Class, Patna, in connection with Kankarbagh P.S. Case No. 806 of 2015.

The petitioner is directed to co-operate during the trial. If the Court below feels that the petitioner is not cooperating in the trial, the court below will be at liberty to cancel the bail of the petitioner.

(Sudhir Singh, J.)

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