

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.33013 of 2016

Arising Out of PS.Case No. -48 Year- 2016 Thana -SAHPUR District- BHOJPUR

=====

Kundan Yadav @ Vijay Shankar Yadav Son of late Narain Yadav, Resident
of Village- Sonbarsa, Police station- Shahpur, District Bhojpur.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Arun Kumar Pandey, Advocate

For the Opposite Party/s : Mr. Anil Prasad Singh, APP

=====

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 23-09-2016 Heard learned counsel for the petitioner, the State and
the informant.

The petitioner seeks bail in a case instituted for the
offences under Sections 147, 148, 149, 341, 324, 307 and 302 of
the I.P.C. and Section 27 of the Arms Act.

The prosecution case, in short is that accusation is that
on the alleged date and time of occurrence the informant along
with his uncle Bisheshwar Ojha (deceased) and one another
person seated over his Safari vehicle after attending marriage
ceremony of nephew of Chandeshwar Upadhyay, which was
being followed by Kamal Deo Ojha by Scorpio, all of sudden the
F.I.R. named accused persons along with 3-4 unknown persons,
who were armed with rifle and gun, surrounded the vehicle from



front and Haresh Mishra and Brajesh Mishra started indiscriminate firing from their carbine on Bisheshwar Ojha, his driver Rakesh Ojha and Kamaldeo Ojha, who sustained fire arm injury and thereafter Bisheshwar Ojha was declared dead in Referral Hospital and two other injured Kamaldeo Ojha and Rakesh Ojha were referred for better treatment.

It has been submitted on behalf of the petitioner that the petitioner is in custody since 7.3.2016 and the charge sheet has been submitted in the present case. There is no allegation of tampering of witnesses alleged against the petitioner. The petitioner is not named in the F.I.R. The petitioner has been made accused in course of investigation. The petitioner is said to have talked to the co-accused on mobile on the alleged date of occurrence. Except for the confessional statement of the petitioner recorded under Section 161 Cr.P.C., there is no substantive evidence to suggest his implication in the present case nor there is any circumstantial evidence to suggest his involvement in the alleged crime. The other co-accused similarly situated has been granted bail vide Cr.Misc.No.28045 of 2016 by a co-ordinate Bench of this Court.

On behalf of the State and the learned counsel for the informant, it is submitted that the name of the petitioner has come

in course of investigation and he has actively participated in the alleged occurrence. There is a confession of the petitioner before the police. After 42 days of the investigation, three witnesses have stated that the petitioner was also there at the place of occurrence and resorted to firing.

It is submitted by the learned counsel for the petitioner that the said submission does not find force as the informant himself is an eye witness, but he has not named the petitioner with such allegation.

Considering the aforesaid facts and circumstances and since the other co-accused with a similar allegation has been granted bail, it is directed that the petitioner above named be released on bail on furnishing bail bond of Rs. 10,000/-(Ten thousand) with two sureties of the like amount each to the satisfaction of learned A.C.J.M. 14, Bhojpur at Ara in connection with Shahpur P.S. case No.48 of 2016.

(Sudhir Singh, J)

Narendra/-

U		T	
---	--	---	--