

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.15181 of 2016

Arising Out of PS.Case No. -3 Year- 2015 Thana -BACHWARA District- BEGUSARAI

Subham Kumar, son of Manoj Kumar @ Manoj Kumar Singh, resident of village/mohalla Sarvoday Nagar, P.S. Town, District Begusarai.

.... Petitioner

Versus

The State of Bihar.

.... Opposite Party

Appearance :

For the Petitioner/s : Mr. Ashok Kumar, Advocate

For the Opposite Party/s : Mr. Sharda Kumari, A.P.P.

CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

3 23-05-2016 Heard learned counsel for the petitioner and learned A.P.P. for the State.

Petitioner is in custody since 12.02.2016 in connection with Bachhwara P.S. Case No. 03 of 2015 for the offences alleged under Sections 302/34 of the Indian Penal Code and Section 27 of the Arms Act.

The prosecution case is that on 9/10th of January, 2015 in the midnight, villager of the informant, namely, Anand Kanhaiya and two other unknown persons came at her house, broke open the door and entered into the courtyard. Upon which informant and other came out side the house. They were searching elder son of the informant, namely, Kanhaiya. In the meantime, husband of the informant Arbind Choudhary came out of the

house and he caught hold of the motorcycle of the accused upon which Kanhaiya Choudhary fired causing his instant death.

It has been submitted by learned counsel for the petitioner that he is not named in the First Information Report whereas the allegation of hitting the husband of the informant is against one co-accused Anand Kanhaiya and he has been named by co-accused in his confessional statement who has also not alleged that the petitioner had committed any overt act of firing on the deceased. He further submits that no T.I. parade has been held so far and the confessional statement of co-accused has no evidentiary value in the eye of law. He further submits that the investigation is going on and he has been chargesheeted and as such, he will not abscond or tamper with the evidence.

However, learned A.P.P. for the State submits that the petitioner although not named in the First Information Report but there are sufficient materials during course of investigation against the petitioner, hence, opposes the prayer for bail.

Be that as it may, since the petitioner is already chargesheeted and as there is no allegation of assault or firing upon the petitioner, let the petitioner, above named be released on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand only) with two sureties of the like amount each to the satisfaction of

learned Chief Judicial Magistrate, Begusarai in connection with Bachhwara P.S. Case No. 03 of 2015.

However, it is made clear that since the petitioner is accused in other cases earlier, if in future, the petitioner has been found indulging in a case of similar nature, the learned court below will be at liberty to cancel the bail bond of the petitioner without being prejudiced with this order.

(Nilu Agrawal, J)

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