

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38123 of 2016

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

1. Pramod Rai son of Tarkeshwar Rai, resident of Mohalla Azad Path, Gali No. 05, P.S. Kankarbagh, District Patna.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. H. P. Singh, Sr. Advocate
For the Opposite Party/s : Smt. Anita Kumari, APP
Mr. Harsh Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

3 19-11-2016 Heard Sri H. P. Singh, the learned senior counsel for the petitioner, Mr. Harsh Singh, the learned counsel for the informant, and the learned Additional Public Prosecutor.

The petitioner seeks bail in Kankarbagh P.S. case No. 806 of 2015 under Section 302, 120B/34 of the Indian Penal Code.

Vijay Kumar, the informant, named the petitioner and alleged that after hearing sound of firing he and his brother, Ram Kumar, peeped through the railing of the roof and saw Pramod Rai, the petitioner, Shankar Rai, Chhotu Rai, Binod Rai, Rajesh @ Jhanjhar Rai and Mahesh Rai fleeing from the place of occurrence towards south. They were firing also. He saw his brother lying on the ground. The informant and others took his

brother to Mahavir Arogya Sansthan where he was declared dead. Binod Rai, Ramesh Rai, Tarkeshwar Rai and Chandeshwar Rai were also present near the Khatal of Binod Rai.

Sri H. P. Singh, the learned senior counsel for the petitioner, submits that six persons, including the petitioner, are named in the FIR but no specific allegation of firing is made against anyone of them. During the course of investigation, in paragraphs 24, 30 and 31 of the case diary the witnesses have stated that on the order of Pramod Rai Chhotu Rai fired. The deceased, Meghnath Rai, got one fire arm injury on his head, which is attributed to Chhotu Rai. The petitioner is in jail since 12.02.2016.

The learned counsel for the informant as well as the learned Additional Public Prosecutor opposed the prayer for bail and submitted that petitioner has got criminal antecedent. The case is fixed for charge on 12.12.2016. Other accused persons, who are on bail, used to file petition under Section 317 of the Cr. P. C., therefore, charge could not be framed as yet.

It appears that the informant in the FIR made omnibus and general allegation against six persons but the deceased got only one fire arm injury, which was the cause of death and no other injury was found on the person of the deceased.

During the course of investigation, three witnesses disclosed in paragraphs 24, 30 and 31 of the case diary that on the order of petitioner Chhotu Rai fired which hit on the head of deceased. Other accused persons, namely, Shankar Rai, Tarkeshwar Rai, Ramesh Rai and Binod Rai have already been granted regular bail.

Considering the fact that petitioner is order giver and he is in jail for about last nine months, the above named petitioner is directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Miss Smita Raj, the learned Judicial Magistrate, 1st class, Patna in Kankarbagh P.S. Case No. 806 of 2015, subject to condition that petitioner shall appear on each and every date during the course of trial and if the petitioner fails to appear on any date, the trial court shall cancel the bail bonds of the petitioner.

(Prabhat Kumar Jha, J)

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