

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35314 of 2016

Arising Out of PS.Case No. -73 Year- 2016 Thana -BIHPUR District- BHAGALPUR

Rishav Kumar S/o Naresh Pandit R/o Moh.- Kali Mela, RH 10 Jama Doba,
P.S.- Jora Pokhar, Distt.- Dhanbad.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

Appearance:

For the Petitioner/s : Mr. Chandra Shekhar Singh, Advocate.

For the Opposite Party/s : Mr. (A.P.P.)

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 22-11-2016

Heard both sides

The petitioner seeks bail in Bihpur (Jhandapur) P.S.

Case No. 73 of 2016 registered under Sections 302, 120(B)/34 of
the Indian Penal Code and Section 27 of the Arms Act. Later on,
Section 414 of the Indian Penal Code was added.

The informant alleged that while his elder brother
Pramod Kumar Rai, a practicing advocate of Civil Courts,
Naugachhia, was returning from court by his vehicle bearing
registration No. BR 10W 1555, the informant was following the
vehicle of his brother. When the vehicle reached near Bagri
Railway over bridge, a XYLO vehicle, bearing registration no. JH
10AM 2743, overtook the vehicle of his brother and dashed it.
Four miscreants came out of the vehicle and opened fire on
account of which his brother died. Dipak Kumar Mandal, driver of

the vehicle and Mritunjay Chaudhary were also sitting in the vehicle along with the brother of the informant. The villagers chased the XYLO vehicle but after one kilometer, the miscreants left vehicle and fled away.

Learned counsel for the petitioner submits that the petitioner is a student of Diploma in Engineering. The petitioner is not named in the F.I.R. Nothing has been recovered from the possession of the petitioner. It is submitted that photograph, tuition fees receipts and other articles of the petitioner were recovered from the XYLO vehicle and except those articles there is nothing on the record to show that the petitioner committed the crime. Name of the petitioner figured in the case in the confessional statement of co-accused. Similarly situated co-accused Sundar Kumar, Dilip Singh and Subham Kumar Singh, a resident of State of Jharkhand, have already been enlarged on bail. The case of the petitioner stands on the same footing.

It appears from perusal of the F.I.R. and the case diary that of course, the petitioner is not named in the F.I.R. but the XYLO vehicle was left abandoned when the villagers chased the miscreants. From the XYLO vehicle, photograph, tuition fees receipts and other identifiable articles belonging to the petitioner were recovered. The name of the petitioner figured in the case in

the confessional statement of a co-accused but it transpires from the case diary that the petitioner and other accused persons firstly looted the XYLO vehicle after taking the same on hire and thereafter all the accused persons traveled to Naugachhia to kill the brother of the informant, who was a practicing advocate of Civil Courts, Naugachhia.

Considering the facts aforesaid, I am not inclined to enlarge the petitioner on bail in Bihpur (Jhandapur) P.S. Case No. 73/16. Accordingly, the same is rejected.

(Prabhat Kumar Jha, J)

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