

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.10954 of 2017

Arising Out of PS.Case No. -122 Year- 2015 Thana -CHIRAIYA District-
EASTCHAMPARAN(MOTIHARI)

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Gautam Choudhary @ Sonu Kumar, S/o Bigan Choudhary, resident of
Shivhar Ward No.13, P.S.- Sheohar, District- Sheohar.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Krishna Prasad Singh, Sr. Adv.

For the Opposite Party/s : Mr. Shailendra Kumar -1, APP

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR

JHA

ORAL ORDER

3 04-04-2017 Heard both sides.

The petitioner seeks bail in Chiraiya P.S. Case No. 122/2015, registered for the offences punishable under Sections 307, 34 of the Indian Penal Code and section 27 of the Arms Act. Later on, section 302 of the Indian Penal Code was added.

The informant injured Chandrika Prasad alleged that while he was taking 'Prasad' at his darwaja Bashisht Narayan Tiwari, Surendra Thakur and three unknown criminals suddenly came at his darwaja and fired which hit on his chest. The informant further alleged that his son Manoj Kumar and others saw the occurrence.

Mr. Krishna Prasad Singh learned senior counsel for the



petitioner submits that the petitioner is not named in the F.I.R. Nothing has been recovered from the possession of the petitioner. The name of petitioner figured for the first time in the confessional statement of the co-accused Vishwajeet in para 61 of the case diary. Save and except the confession of Vishwajeet the Investigating Officer did not collect any further evidence. The petitioner was not even put on Test Identification Parade. Although the son of the informant and others claimed to identify the unknown criminals who accompanied Bashisht Narayan Tiwari and Surendra Thakur. It is further submitted that Surendra Thakur the named accused has already been enlarged on bail by a co-ordinate bench of this court vide order passed in Cr. Misc. 6882/2017. The case of the petitioner stands on better footing.

Mr. Shailendra Kumar learned A.P.P. did not dispute the fact.

It appears that the injured himself is the informant of the case, as he identified two persons namely, Bashisht Narayan Tiwari and Surendra Thakur and also disclosed that three unknown persons accompanied them. The informant did not make specific allegation of fire against anywhere, it has been pointed out in para 41 of the case diary. Manoj Kumar son of the deceased stated that it was Bashisht Narayan Tiwari who fired at his father



and the deceased got one fire-arm injury. It also appears from perusal of the case diary itself that the Investigating Officer for the reasons best known to him did not take the statement of Manoj Kumar son of the deceased. Although he is said to be the eye-witness of the occurrence. The Dy. S.P. in his supervision did not even point out this fact.

It appears that the name of the petitioner figured in the confession of the co-accused Vishwajeet in para 61. No further material is collected.

Considering the facts aforesaid, the petitioner above-named, 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 Chief Judicial Magistrate, Sikrahna at Dhaka, Motihari in connection with Chiraiya P.S. Case No. 122/2015.

(Prabhat Kumar Jha, J.)

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