

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.16635 of 2017

Arising Out of PS.Case No. -209 Year- 2013 Thana -AGAMKUAN District- PATNA

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Harsh Vardhan Son of Hari Shankar Ram, Resident of village - Nauranga,
P.S. Bairiya, District - Balia, U.P.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Narain Sinha, Advocate.

For the Opposite Party/s : Mr. Akhileshwar Dayal, APP.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA

ORAL ORDER

3 09-05-2017 Heard Mr. S. N. P. Sinha, learned senior counsel

appearing on behalf of the petitioner, learned counsel for the

informant and learned APP.

The petitioner seeks bail in Sessions Trial No. 311

of 2014 arising out of Agamkuan P.S. Case No. 209 of 2013

registered under Sections 302, 120B and 34 of the Indian Penal

Code and Section 27 of the Arms Act.

The informant, wife of the deceased, named

Sanrakshita Devi, Pravin Kumar and others and alleged that when

her husband went to see the construction of warehouse situated at

Pahari, her husband was killed. The driver of the vehicle disclosed

the fact and on such, the informant and other family members

came to the place of occurrence and found the dead body was



lying in a pool of blood.

Mr. S. N. P. Sinha, learned senior counsel appearing on behalf of the petitioner submits that the petitioner is not named in the F.I.R. The name of the petitioner figured in the case on the basis of CCTV footage. It is further submitted that some arms were recovered from the possession of the petitioner along with other accused persons. Similarly situated co-accused Rajesh Rajak and others, namely, Sudhir Kumar Yadav, Vishal Kumar @ Vishal Singh and Rajesh Yadav have already been enlarged on bail. The petitioner is in jail for more than three years and the trial has not yet been concluded. Only seventeen witnesses have been examined till date.

On the other hand, learned counsel for the informant as well as the learned APP vehemently opposed the prayer for bail and submitted that four persons, namely, Dhiraj Kumar, Harsh Vardhan (petitioner), Randhir Kumar Singh and Rajesh Rajak are said to have fired. Rajesh Rajak was granted bail vide order dated 14.12.2016 passed in Cr. Misc. No. 53795 of 2016 on concealment of facts. The order itself shows that the case of Rajesh Rajak is similar as that of Vishal Kumar @ Vishal Singh, but true fact is that there is no allegation of firing against Vishal Kumar @ Vishal Singh. The informant has filed petition for cancellation of bail. It



is further submitted that from the possession of the petitioner, one pistol was recovered and the same was sent to FSL. Para-24 of the case diary shows that the firing was made from the same pistol which was recovered from the possession of the petitioner. The deceased got as many as six fire arm injuries in different parts of his body and there are four assailants, namely, Dhiraj Kumar, Harsh Vardhan (petitioner), Randhir Kumar Singh and Rajesh Rajak. It is further submitted that seventeen witnesses have been examined and the trail is likely to be concluded.

It appears that the petitioner is, of course, not named in the F.I.R, but during the course of investigation, the name of the petitioner figured in the case and Sikandar Kumar, the driver of the vehicle of the deceased, has very categorically named the petitioner in Para-36 of the case diary and disclosed that firstly Dhiraj Kumar fired and Sailesh Kumar fell down on the ground and thereafter Harsh Vardhan (the petitioner), Randhir Kumar Singh and Rajesh Rajak made indiscriminate firing causing death of Sailesh Kumar. Rajesh Rajak has been granted bail on concealment of facts. His case is not on the same footing as that of Vishal Kumar @ Vishal Singh. Rajsh Rajak is also one of assailants, who is alleged to have fired.

Considering the facts aforesaid, I am not inclined to



enlarge the petitioner on bail. Accordingly, the same is rejected.

The learned trial court is directed to hold the trial on day-to-day basis and conclude the same within six months from the date of receipt of a copy of this order.

Senior Superintendent of Police, Patna is directed to ensure the attendance of the witnesses in the trial court, so that the trial must be concluded within six months from the date of receipt of a copy of this order.

Let a copy of this order be sent to the learned trial court as well as the Senior Superintendent of Police, Patna for information and needful.

(Prabhat Kumar Jha, J)

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