

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.22865 of 2017

Arising Out of PS.Case No. -351 Year- 2016 Thana -DALSINGHSARAI District- SAMASTIPUR

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1. Shivam Kumar Choudhary @ Kaar Babu @ Kar Babu Son of Sanjay Kumar Choudhary, Resident of Village- Asinchak, P.S. Dalsingsarai, District- Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rohit Kumar

For the Opposite Party/s : Mr. Sanjay Kumar

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

4 04-08-2017 Heard learned counsel for the petitioner and learned
APP for the State.

Petitioner is languishing in custody since 10.01.2017 in connection with Dalsingsarai P.S. Case No. 351 of 2016 for offences punishable under Section 302 and other allied Sections of the Indian Penal Code and 27 of the Arms Act.

The prosecution case, as lodged by the informant, is that while he had gone to provide lunch tiffin to his deceased brother Ramesh Prasad in his jewellery shop and after giving food while he was returning three unknown persons on a motorcycle came to his shop and he heard the firing shot, upon which his brother fell down and succumbed to the injuries. One of the accused was caught by the local people, who was shot dead by one



of the accused. The three accused persons including the petitioner forcibly tried to take jewellery from the shop of his brother.

It has been submitted by the learned counsel for the petitioner that he is innocent, not named in the First Information Report and it is only on his own confessional statement before the police that his name surfaced. He submits that the recovery of pistol was not from his house but as per his confession from the house of another co-accused. He further submits that he has two cases pending against him and in both the cases he has been granted the privilege of bail by Coordinate Benches of this Court in Cr. Misc. No. 33038 of 2017 on 20.07.2017 and Cr. Misc. No. 22623 of 2017 on 07.07.2017. It is submitted that except for his confessional statement before the police, which has no evidentiary value in the eye of law, and suspicion there is no other material against him. It is further submitted that no T.I. Parade has been done so far.

However, learned APP for the State vehemently opposes the prayer for bail stating therein that it was a broad day light murder committed by the petitioner and the co-accused.

Considering the facts and circumstances and the materials on record, let petitioner, above named, be enlarged on



bail on furnishing bail bond of Rs.25,000/-(Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Addl. Chief Judicial Magistrate, Dalsingsarai, in connection with Dalsingsarai P.S. Case No. 351/2016, subject to the condition that both the bailors would be a close relative of the petitioner having sufficient immovable property within the jurisdiction of the concerned police station, who will file an affidavit stating their relationship with the petitioner and that petitioner will appear before the learned court below during trial as and when required and failure to appear on two consecutive dates without assigning any reason will entail cancellation of his bail bonds. It is also made clear that if the petitioner indulges in an offence of similar nature in future, or will induce or tamper with any of the witnesses, the prosecution will be at liberty to move the learned court below for cancellation of his bail bonds.

(Nilu Agrawal, J)

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