

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.52135 of 2017

Arising Out of PS.Case No. -93 Year- 2009 Thana -DAUDNAGAR District- AURANGABAD

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Bantu Yadav @ Kundan Kumar Son of Chandradeo Yadav Resident of
Village Makhmulpur (Barkabigha), P.S. Daudnagar, District : Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bachan Jee Ojha

For the Opposite Party/s : Mr. Sri Rajesh Kumar

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

4 21-12-2017

Heard the learned counsel for the petitioner and
learned counsel for the State.

The petitioner seeks bail in connection with Sessions
Trial No. 419 of 2017, arising out of Daudnagar P.S. Case No. 93
of 2009 dated 03.05.2009 instituted for the offences under
Sections 302 of the Indian Penal Code and under Section 27 of the
Arms Act.

The petitioner is alleged to have shot at one Kulbansh
Singh who died on the spot. From the FIR, it appears that an
orchestra was being performed in a marriage party in the village of
the informant and when the deceased had gone in the crowd to
intercede with the persons who were shouting in the tent, the
petitioner is said to have fired from his weapon killing the
deceased. During the course of investigation, it came to light that



the deceased had been given the entire post retiral dues of his uncle of which the informant is also one of the nephews. There existed a property dispute between the informant and the deceased, even though the informant is directly related to the deceased. For the aforesaid facts, the police, though, found the occurrence to be correct but did not find sufficient material to send up the petitioner for trial. However, the learned court below, on perusal of materials in the police papers, took cognizance against the petitioner for the offences under Section 302 of the Indian Penal Code and under Section 27 of the Arms Act.

Learned counsel for the petitioner has however submitted that all the statements which attribute the act of killing to the deceased have been made by the persons who are related to the informant and who have definite axe to grind against the deceased. The fact that the deceased had been enriched by the property of one of his uncles, to the exclusion of the informant and others, had led to the occurrence in which the deceased was killed by hired assassins at the instance of the informant himself. It is further submitted that in order to turn the gaze of the investigation away from the informant and others who were instrumental in causing death of the deceased, this false story was spun by the informant himself. It has further been submitted that there was no occasion for the petitioner to have shot at the deceased, more so,



when the deceased had not specifically confronted the petitioner for having creating a ruckus at the place where the orchestra was being performed.

The petitioner is in custody since 08.08.2017 and does not have any criminal antecedent.

Considering the aforesaid facts, this Court is inclined to grant bail to the petitioner but with the caveat that the petitioner shall participate in the trial and would not do anything which would impede the speedy conclusion of the trial.

The petitioner above named is directed to be released on bail on his furnishing bail bond in the sum of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Sessions Judge, Aurangabad in connection with Sessions Trial No. 419 of 2017, arising out of Daudnagar P.S. Case No. 93 of 2009.

The petitioner shall participate in the trial and his unexplained/unauthorized absence from the trial proceedings for three consecutive dates would entitle the trial court to cancel the bail bond of the petitioner and take all coercive steps for taking him into custody.

(Ashutosh Kumar, J)

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