

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.26224 of 2017

Arising Out of PS.Case No. -231 Year- 2016 Thana -KUSHESHWARSTHAN District-
DARBHANGA

=====

1. Sikandar Yadav @ Sikindar Yadav @ Guruchun Yadav Son of Sri Rasik Lal Yadav, Resident of Village-Kewatgama, P.S.-Kusheshwar Asthan, District-Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Manish Kumar No 13

For the Opposite Party/s : Smt Sangeeta Sharma

=====

CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

5 18-09-2017 Heard learned counsel for the petitioner, learned counsel for the informant and learned APP for the State.

Petitioner seeks bail in connection with Sessions Trial No. 142 of 2017, arising out of Kusheshwar Asthan P.S. Case No. 231 of 2016, G.R. No. 880 of 2016 for offences punishable under Section 302/34 of the Indian Penal Code.

The prosecution case, as lodged by the informant, is that while his father Ram Chandra Yadav (deceased) was returning home in his motorcycle, he got information that 8-9 persons have surrounded him and shot him by fire-arm. The cause of dispute was land dispute as well as one of the co-accused Praveen Yadav had contested the election but his father had won



the election. As many as six persons have been named in the First Information Report.

It has been submitted by the learned counsel for the petitioner that he is innocent and has been falsely implicated in the aforesaid case. He submits that during investigation in paragraph 181 of the case diary statement of Indal Yadav and Ram Udgar Yadav has been recorded in a separate sheet in which both have stated that the petitioner opened fire, which did not hit the deceased, but the gun shot of co-accused Praveen Yadav hit the deceased and he succumbed. Another witness Arun Yadav has stated that he saw 8-9 persons including the petitioner running away, petitioner is languishing in custody since 15.12.2016 and being on inimical terms the petitioner has been falsely implicated. It is submitted that the trial has commenced and petitioner undertakes to cooperate in the trial. It is further submitted that two of the co-accused, who were named by the informant have since been granted privilege of bail by a coordinate Bench of this Court in Cr. Misc. No. 6324 of 2017 on 29.06.2017.

However, learned counsel appearing for the informant and learned APP for the State vehemently oppose the prayer for bail stating therein that it was a cold-blooded murder because one



of the co-accused of the family of the petitioner had lost election with the father of the informant and witnesses have seen the petitioner along with others fleeing away from the place of occurrence. He further submits that the CDR location of the petitioner on investigation was found at the place of occurrence and petitioner is terror in the locality and if bailed out will tamper with the prosecution evidence. It is further submitted that the petitioner was part of the criminal conspiracy and had criminal intention and that the trial is going on. Petitioner does not have a clean antecedent because as many as two cases are pending against him although he is on bail in those two cases.

Considering the facts and circumstances and the materials on record, since the witnesses have stated that although the petitioner opened fire but it was co-accused Praveen Yadav, whose gun shot hit the deceased, let petitioner, above named, 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 learned Addl. Sessions Judge-II, Benipur, Darbhanga, in connection with Sessions Trial No. 142 of 2017, arising out of Kusheshwar Asthan P.S. Case No. 231 of 2016, G.R. No. 880 of 2016, subject to the following conditions :

- (i) One of the bailors would be a close relative of the



petitioner having sufficient immovable property, who will file an affidavit stating his relationship with the petitioner.

- (ii) 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.
- (iii) If the petitioner indulges in an offence of similar nature in future, the prosecution will be at liberty to move the learned court below for cancellation of his bail bonds.
- (iv) Petitioner will also appear before the concerned police station in the first week of every month.

It is expected that the trial be concluded expeditiously within one year.

(Nilu Agrawal, J)

Rajesh/-

U		T	
---	--	---	--

