

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.46424 of 2016

Arising Out of PS.Case No. -371 Year- 2016 Thana -PHULWARI District- PATNA

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Md. Naushad @ Sonu, Son of Late Salman, Resident of Village- Mohalla-
Gulista, P.S.- Phulwarisharif, District- Patna.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dhananjay Kumar, Advocate.
For the Opposite Party/s : Mr. Shailendra Kumar -2, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

5 20-02-2017 Heard learned counsel for the petitioner, learned
counsel for the informant and the State.

The petitioner seeks bail in a case instituted for the
offence under Sections 302, 34, 120B of the Indian Penal Code
and Section 27 of the Arms Act.

As per the written report the father of the informant
was shot dead. The informant has alleged that his father was not
on good talking term with accused Manoj and, therefore, it might
be suspected that his father was killed by Manoj Kumar.

It has been submitted on behalf of the petitioner that he
is not named in the First Information Report. His name has come
in the confessional statement of co-accused Manoj in paragraph-
28 of the case diary. Similarly, the other witnesses in paragraphs



72 and 73 of the case diary have not taken the name of the petitioner.

The learned A.P.P. and learned counsel for the informant have submitted that prayer for regular bail of one of the co-accused Md. Khalid has been rejected by a coordinate Bench of this Court vide order dated 26.11.2016 passed in Cr. Misc. 45241 of 2016.

In reply to the aforesaid submission the learned counsel for the petitioner submits that the case of Md. Khalid was on different footing with the case of the petitioner. It has been submitted that there was some whispering about the overt act committed by co-accused Khalid, but with regard to the petitioner, there is no any specific role or overt act attributed to the petitioner. He has only been named by Manoj Kumar. It has also been submitted that the petitioner has clean antecedent. He has falsely been implicated in the case simply because his father had died in the police station, for which he filed a case against the Police Officer vide Annexure-2 series bearing Maner P.S.Case No. 158 of 2012. The matter was referred to the Human Rights Commission where the order was passed against the Police Officers vide BHRC/Complaint CD-2369 of 2012 dated 1.1.2013.



From the order of the learned Sessions Judge also, it appears that the name of the petitioner has been disclosed in the confessional statement of co-accused Manoj. The Sessions Judge has also mentioned the statement of the witnesses made in paragraph 73 of the case diary but from paragraph 73 it appears that there is no specific overt act made against the petitioner. The petitioner is in custody since 26.7.2016.

Considering the aforesaid facts and circumstances of the case, prayer for bail of the petitioner is allowed. Let the petitioner above named, be released on bail on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Smt. Shema Eram, learned Judicial Magistrate, 1st Class, Patna, in connection with Phulwarisharif P.S. Case No. 371 of 2016, G.R. No. 4218 of 2016, subject to the condition that both the bailors will be the close relatives of the petitioner.

(Sanjay Priya, J)

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