

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.40545 of 2018

Arising Out of PS.Case No. -704 Year- 2017 Thana -BIHTA District- PATNA

=====

1. Vishal Ram @ Vishal Raj @ Rikki son of Sri Raj Kumar Prasad, resident of R Block, Road No. 7, P.S. Sachivalaya, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Adv.
	:	Mr. Nilesch Kumar, Adv.
For the Opposite Party/s	:	Mr. Ajay Kumar Mishra, APP
For the Informant	:	Mr. Sandeep Kumar, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

6 03-10-2018 The petitioner is in custody since 28.09.2017 in connection with Sessions Trial No. 81 of 2018 arising out of Bihta P.S. Case No. 704 of 2017, registered for offences punishable under Sections 326, 302, 34, 120(B) of the Indian Penal Code and Section 27 of the Arms Act.

Allegation as per F.I.R. is that brother of the informant killed by some miscreants and later on F.I.R. has been lodged against some unknown persons. Petitioner is not named in the F.I.R. Later on, his name transpired during the investigation as well as his confession is also there apart from the CDR location.

Submission of learned counsel for the petitioner is that the occurrence took place on 15.09.2017 and the CCTV footage



was also perused and from that the petitioner has not been identified. Thereafter, there is confessional statement of one Akshay is there, who disclosed that Amit had fired on the deceased and he also fired. Further in para no. 268 is the confession of the petitioner and para no. 274 is confessional statement of one Mohd. Sabir @ Zahid @ Tanvir is there and in para nos. 326, 327, 328 and 329, the statement of so called witnesses is there, from which it appears that Amit Kumar, Mohd. Sabir and Shankar Kumar Choudhary had fired on the deceased. From para no. 330 of the case diary, it appears that the statement on one Sanjay Kumar was recorded and he has stated that he has seen the petitioner and other accused persons going towards the place of occurrence just before the occurrence and that the aforesaid fact clearly disclosed that the petitioner has been made accused only on the basis of suspicion and there is no allegation of firing against him. The petitioner is in custody since 28.09.2017.

Heard learned A.P.P. as well as learned counsel for the informant, they have opposed the prayer for bail of the petitioner stating that material collected during course of investigation as well as the statement of Sanjay Kumar clearly shows that petitioner was also going by motorcycle towards the place of occurrence prior to the occurrence and just after the occurrence he



was seen coming from the place of occurrence. Apart from that the confessional statement of the petitioner and other is also there from which it is clearly apparent that it was the petitioner who was driving the motorcycle and further another motorcycle was driven by one Pappu Singh, whose application for bail has already been rejected vide order dated 08.01.2018 passed in Cr. Misc. No.56489 of 2017.

Having heard both sides, considering the facts and circumstances of the case and the nature of accusation, I am not inclined to enlarge the petitioner on bail. This application is, accordingly, dismissed.

However, since the petitioner is in custody for one year, learned Trial Court is directed to expedite the trial and conclude the same as soon as possible.

(Vinod Kumar Sinha, J)

sunil/Amjad/-

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

