

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.8485 of 2018

Arising Out of PS.Case No. -69 Year- 2017 Thana -DHANGAI District- BHOJPUR

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1. Nami Paswan S/o Sri Nand Kumar Paswan, R/o Village and P.S.- Tiar,
Distt.- Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Kanhaiya Prasad Singh (Sr. Advocate)

For the Informant : Mr. S.K.Yadav

For the State : Mr. Satyendra Prasad, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

4 09-03-2018 Heard learned Senior Counsel for the petitioner and

learned counsel for the informant as well as learned Additional

Public Prosecutor for the State.

The petitioner has been in custody since 10.09.2017
in connection with Dhangai P.S. Case No. 69/2017 registered for
the offences punishable under Sections 302/34 of the Indian Penal
Code and Section 27 of the Arms Act.

Learned counsel for the petitioner submits that the
entire case is false and fabricated and though the informant is said
to be an eye-witness and has named the present petitioner in his
F.I.R., later on, during the course of investigation at para 39 and
59, it has been categorically stated that he had come to the place of
occurrence on hearing the death of his son and had been mentally
disturbed and was making certain statements out of pure confusion



and mental disturbance. Learned counsel for the petitioner further submits, that the entire prosecution story is doubtful and can be placed under a cloud for the reason that though the petitioner Nami Paswan is said to have fired on the chest, the post-mortem which was conducted on the deceased does not indicate any bullet wound on his chest. Rather two wounds have been found on his abdominal region and the other on the cranial region. Thus, the story of the petitioner can well be belied by the post-mortem report. He thus submits, that despite the fact that two other accused persons are also said to have fired, one Ranjnath on whom the allegation is of firing on the temple region has not been chargesheeted as on enquiry it was found during the course of investigation (para 38 of the case diary) that the said Rajnath was not present in the village on the concerned date. He thus submits, that the entire case being false, the petitioner has been named on mere speculation and the petitioner is entitled to the privilege of bail.

Learned counsel appearing on behalf of the informant has, however, opposed the prayer for bail on the ground that the petitioner has specifically been named in the First Information Report and is alleged to have fired on the chest of the deceased leading to his death. He further submits that being one of the main assailants, he may not be extended the privilege of bail.



Diary in the present case was called for which has since been received.

Learned counsel for the State after perusal of the case diary submits that the informant himself has given contrary version at a later stage after the institution of First Information Report, on two occasions, and, therefore, the prosecution story appears to be doubtful. He further submits that the post-mortem report does not indicate any chest injury and only injuries in the cranial and abdominal region have been found. It is also submitted that one Rajnath who is alleged to have fired in the cranial region on the deceased, was since not chargesheeted for the reason that after due enquiry, the said Rajnath was found to have been taking treatment at Patna and, therefore, his presence at the place of occurrence was clearly doubted/negated and he has not been put up for trial. Learned counsel for the State thus submits that there appears to be a doubt in the prosecution story as a whole for the reasons as stated above.

Having heard learned Senior Counsel for the petitioner, learned counsel appearing on behalf of the informant as well as learned counsel for the State and taking into consideration the fact that the petitioner has got no criminal antecedent, let the petitioner above named, be released on bail on furnishing bail bonds of



Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned A.C.J.M., Ara, Bhojpur, in connection with Dhangl P.S. Case No. 69/2017, subject to the following conditions:-

- (1) One of the bailors will be his father.
- (2) The petitioner shall not indulge himself in any similar offence till conclusion of the trial.
- (3) The petitioner shall remain physically present in court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reasons, his bail bonds shall be liable to be cancelled by the learned court concerned.
- (4) The petitioner shall co-operate with the investigation, if not already concluded, and make himself available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

(Anjana Mishra, J)

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