

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.50443 of 2018

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

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Pankaj Kumar Phakkar @ Pankaj Kumar @ Phakkar S/o Sri Ramnath Singh, R/o Vill.- Basudha (Basaurha), P.S.- Bihta (Neora O.P.), District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Makan, Advocate,
Mr. Amit Kr. Jha, Advocate.

For the Opposite Party/s : Mr. Rajendra Nath Jha, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

4 05-10-2018 Heard learned counsel for the petitioner, learned counsel for the informant and the State.

The petitioner seeks bail in Bihta P.S. Case No. 704 of 2017 instituted for the offence under Sections 326, 302, 120(B)/34 of Indian Penal Code and Section 27 of the Arms Act.

In the written report it is alleged that on the date of occurrence the informant along with his brother was standing in front of Cinema Hall at 5:45 p.m. evening and brother of the informant namely, Nirbhay Singh was standing at a distance of about ten steps from the informant. In the meantime, all of sudden, the informant heard sound of firing. The informant found that three persons had surrounded his brother Nirbhay Singh. They



all were having weapons in their hands. The brother of the informant had fallen down on the road with bleeding. All the accused persons fled away towards north of k.oil depot of Raj Kumar Singh. The informant has alleged that one of the person was wearing red shirt. The person present there chased the miscreants but they managed to run away. Thereafter, the informant took his injured brother Nirbhay Singh to local Hospital from where he was referred for better treatment. Thereafter, the informant took his brother in Danapur Hi-tech Private Hospital, where the Doctor has declared him dead.

Counsel for the petitioner submits that petitioner is not named in the written report. His name has come on the basis of confessional statement of co-accused Akshay Kumar @ Golu @ Prince recorded in paragraph-109 of the case diary.

Case diary has been received.

Learned A.P.P. has referred to paragraphs 45, 48, 51, 54, 57, 103, 109, 128 and 292 to 300 of the case diary. He has submitted that in confessional statement of Akshay Kumar @ Golu @ Prince recorded in paragraph-109 of the case diary, he has taken the name of this petitioner as a conspirator. Golu has further stated in his confession that Amit has committed murder of brother of the informant. Counsel for the State further submits that



all the witnesses in Paragraphs 292 to 300 have stated that petitioner has been named as conspirator.

Counsel for the informant has appeared and submitted that it has come in the evidence that petitioner was one of the conspirators. In the CCTV Camera footage, one Amit was identified and some Motorcycles were also found. Counsel for the informant further submits that bail of co-accused Pappu Singh has been rejected by a coordinate Bench of this Court vide order dated 08.01.2018 passed in Cr. Misc. 56489 of 2017.

Counsel for the petitioner submits that case of the petitioner is on different footing. He has submitted that all the witnesses in paragraphs 292 to 300 have levelled specific allegation against four persons namely, Md. Tanvir, Manish, Rikki and Amit Kumar causing firearm injury to brother of the informant. Akshay Kumar @ Golu @ Prince has confessed his guilt. He has taken the name of this petitioner merely as conspirator.

Post mortem report is available in the case diary wherein the Doctor has found two firearm injuries on the person of the deceased.

Petitioner is said to be in custody since 24.02.2017.

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 learned Additional Chief Judicial Magistrate 1st, Danapur, in connection with Bihta P.S. Case No. No. 704 of 2017 subject to the condition that both the bailors will be close relatives of the petitioner.

The petitioner will cooperate in conclusion of the trial. He will remain present on each and every date of trial till disposal of the case. He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial. In the event of default of two consecutive dates without valid reason, his bail bonds will liable to be cancelled.

(Sanjay Priya, J)

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