

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.53236 of 2018

Arising Out of PS. Case No.-151 Year-2018 Thana- UCHKAGAON District- Gopalganj

Bablu Dubey @ Rajesh Kumar Dubey S/o Sri Baleshwar Nath Dubey @
Baleshwar Dubey, Resident of Balesara, P.S.- Uchkagaon, District-
Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pranav Kumar

For the Opposite Party/s : Mr. Sri Yogendra Kumar

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL ORDER

4 03-10-2018

Heard learned counsel for the petitioner, learned APP

for the State and learned counsel for the informant.

The petitioner seeks bail in Uchkagaon P. S. Case No.
151 of 2018 instituted for the offence under Section(s) 307, 452,
326, 302, 120B Indian Penal Code and Section 27 Arms Act.

It is alleged in the written report that on the date of
occurrence, informant, namely, Mahatam Chaudhary (since
deceased) was sitting in front of his house with his elder son,
namely, Satyendra Chaudhary and with husband of the Mukhiya
of the said Panchayat, namely, Ashok Sah were talking at the door
of the informant's house. In the meantime, petitioner came at the
door of the informant along with another co accused, namely,
Suresh Chaudhary on motorcycle . Thereafter, co accused Suresh
Chaudhary fired on the son of the informant, namely, Satyendra



Chaudhary. The informant tried to save his son then the petitioner fired upon the informant (since deceased). The wife of the informant after hearing the sound of gun shot came out of the house along with her younger son, namely, Nagendra Chaudhary then co-accused Suresh Chaudhary fired upon the wife of the informant and petitioner fired on the another son of the informant, namely Nagendra Chaudhary. The villagers arrived on hulla and took the informant and other family members to Sadar Hospital, Gopalganj for treatment where the son of the informant, namely, Satyendra Chaudhary died . The informant, his wife and another son were referred to Gorakhpur hospital seeing the condition to be serious for better treatment.

Learned counsel for the petitioner has submitted that in the case diary in paragraph nos. 40, 44, 47, 63, 82, 86 and 90, there is no any specific allegation of overt act against this petitioner.

Learned counsel for the informant and State has appeared and opposed the prayer. Learned counsel for the informant has relied on paragraph nos. 44, 47 and 63 of the case diary. It has further been submitted that in the instant case, due to fire arm injury caused by this petitioner and co-accused Suresh Chaudhary four members of informant's family sustained serious gun shot injuries. The informant, namely Mahatam Chaudhary (since deceased) and his one son, namely, Satyendra Chaudhary



has succumbed to the injury. The condition of other two injured, namely wife of the informant and another son, namely, Nagendra Chaudhary are still serious.

From the fardbeyan, it appears that informant has levelled specific allegation against this petitioner of causing fire arm injury to him and his younger son, namely, Nagendra Chaudhary. The informant has died during course of treatment and the younger son, namely, Nagendra Chaudary is still in serious condition.

In such circumstances, the statement of informant (since deceased) given in fardeyan become relevant in terms of Section 32 of the Evidence Act. The petitioner is main assailant of informant as per fardbeyan.

Therefore, this Court is not inclined to grant bail to the petitioner. Prayer for bail made on behalf of the petitioner stands rejected.

The trial Court is directed to expedite the trial.

(Sanjay Priya, J)

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