

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.57509 of 2018

Arising Out of PS.Case No. -241 Year- 2016 Thana -BEUR District- PATNA

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Santosh Kumar, Son of Late Shyam Babu Rai, resident of Hashanpura
(Hasanpura Road) Near Uday Kumar Mukhiya, P.S. Beur, District- Patna.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Zaki Haider

For the Opposite Party/s : Mr. Sri Ashok Kumar Singh

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL ORDER

3 03-10-2018 Heard learned counsel for the petitioner, learned
counsel for the informant and learned APP for the State.

Petitioner had earlier moved for bail which was
rejected vide order dated 11.08.2017 passed in Cr. Misc. No.
26267 of 2017.

Petitioner is languishing in judicial custody since
20.10.2016 in connection with Sessions Trial No. 133 of 2017
arising out of Beur P.S. Case No. 241 of 2016 for offences
punishable under Sections 302, 120(B), 34 of the Indian Penal
Code and 27 of the Arms Act.



The prosecution case, as lodged by the informant, is that while her husband Ram Chandra Jha (deceased) was returning home at 8 p.m. in the night in a motorcycle after buying vegetables and was 20 steps away from the house, she heard sound of firing and on coming out she saw the petitioner with five other accused persons named in the FIR and some unknown who indiscriminately fired on the deceased who succumbed while being taken to the hospital. It has been stated in the FIR that co-accused Ranjan Kumar fired on the shoulder and the petitioner also fired on the chest. It has further been alleged in the FIR that co-accused Ranjan Kumar had personal enmity as the informant's husband earlier had a joint marble shop but due to some dispute he had opened another shop and the dispute still remained. It is also alleged that there was also enmity between Rohit Kumar who had taken Rs. 1,50,000 from co-accused Ranjit Kumar@Bitu for killing the informant's husband.

It has been submitted by the learned counsel for the petitioner that he is innocent and has been falsely implicated in the aforesaid case just because he has a sand shop near the shop of the petitioner. He further submits that allegations upon all the accused is of indiscriminate firing on the deceased and



specific allegation has been levelled against all accused is of hitting on the specific part of the body by each which is most improbable as at 8 p.m. it is difficult to see which part of the body was affected by the firearm injury on the deceased and by whom. It is further submitted that co-accused Ranjan Kumar has been granted privilege of bail by this Court in Cr. Misc. No. 33128 of 2018 vide order dated 04.07.2018. Petitioner further submits that he is languishing in judicial custody since nearly two years and trial has not made much headway.

However, learned counsel for the informant as well as learned APP for the State vehemently oppose the prayer for bail stating therein that specific allegation against the petitioner is of hitting on the chest along with co-accused Ranjit Kumar @Bitu. He further submits that the post mortem report specifies six firearm injuries. He further submits that the informant has moved the Apex Court for cancellation of bail granted to co-accused Ranjan Kumar in which notices have been issued which is Annexure-G to his counter affidavit. He further submits that the bail application of other accused namely co-accused Bhola Kumar has also been rejected by this Court on two occasions.



In this regard a report was called for regarding the stage of Sessions Trial from the court of learned Additional District and Sessions Judge III-cum-Special Judge, CBI-II, Patna who has submitted a report vide letter no. 372 dated 27.09.2018 stating therein that the matter is running for cross-examination of the informant.

Considering the facts and circumstances and the materials on record as well as the period of custody and that trail has not been made much headway, let petitioner, above named, be enlarged 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 District Judge-III, Patna, in connection with Sessions Trial No. 133 of 2017 arising out of Beur P.S. Case No. 241 of 2016, subject to the conditions that:

(1) One of the bailors would be a close relative of the petitioner having sufficient immovable property, who will file an affidavit stating his relationship with the petitioner.

(2) Petitioner will appear before the learned court below during trial as and when required and failure to appear on two consecutive dates



without assigning any reason will entail
cancellation of his bail bonds.

(Nilu Agrawal, J)

Devendra/Priyanka

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