

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.2912 of 2018

Arising Out of PS.Case No. -146 Year- 2017 Thana -SIRDALA District- NAWADA

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1. Birendra Yadav @ Ranjit S/o Late Lachhu Yadav, R/o Village-
Kathautiya Kewal, P.S.- Fatehpur, District- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vikramadev Singh
Mr. Ajay Kumar Sinha
For the Informant : Mr. Bhaskar Shankar
For the State : Ms. Sahin Begam, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN
PRASAD
ORAL ORDER

4 07-03-2018 Heard the learned counsel for the petitioner, learned
counsel for the State as well as learned counsel representing the
informant.

The petitioner in the present case is seeking regular
bail in connection with Sirdalla P.S. Case No. 146/2017 registered
for the offences punishable under Sections 302/34, 120(B) and
506 of the Indian Penal Code as well as Section 27 of the Arms
Act.

Learned counsel for the petitioner submits that the
manner in which the name of this petitioner has transpired as main
assailant casts serious doubt on the conduct of the prosecution as
according to him two witnesses who are full brothers of the



deceased and have been examined by the I.O. after three months from the date of lodging of the F.I.R. have come out giving specific name of this petitioner as the main assailant who fired and killed the victim as after thought. He further submits that the F.I.R. was lodged on 23.06.2017 at about 11:45 PM by the father of the deceased but at that point of time, the two brothers of the deceased did not claim themselves as eye-witnesses to the alleged occurrence. This, according to the learned counsel for the petitioner, throws serious doubt on the prosecution story and therefore, it is a fit case for grant of regular bail to the petitioner.

On the other hand, learned counsel representing the State as well as the informant jointly submit that in the First Information Report, which has been lodged on the basis of the written complaint of the informant, it has been specifically stated that Kamlesh Yadav is an eye-witness of the occurrence, who has seen the occurrence and the said Kamlesh Yadav in his statement before the I.O. has stated that he had seen the accused persons including the present petitioner lashed with pistol and fleeing away from the place of occurrence and he had identified this petitioner while he was fleeing away. They have further submitted that the I.O. recorded the statement of the two brothers after certain gap of time, but that alone cannot be taken as any serious



discrepancy or doubt over the prosecution story.

Learned counsel for the informant further pointed out that a co-ordinate Bench of this Court while hearing the regular bail applications of the co-accused persons, namely, Kameshwar Yadav, Raju Yadav and Baleshwar Yadav in Cr. Misc. No. 62172/2017 and Cr. Misc. No. 1749/2018 granted regular bail to them taking note of the materials collected in course of investigation, wherein it is stated that the direct allegation, in view of the investigation, is confined to the present petitioner.

Having heard the learned counsels and upon consideration of the materials, I find that there are some corroborating materials and for the purpose of regular bail at this stage, I am not inclined to enlarge the petitioner on bail.

The trial court is directed to expedite the trial.

The present application is disposed of.

(Rajeev Ranjan Prasad, J.)

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