

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.5715 of 2019

Arising Out of PS. Case No.-9 Year-2013 Thana- RUNISAIDPUR District- Sitamarhi

Nitesh Singh @ Nitesh Kumar Singh, age about 42 years (Male), Son of Shyam Babu Singh, Resident of Village-Tariyani Chapra, P.S.- Tariyani, District - Sheohar

... .. Petitioner/s

Versus

The State Of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Pushpendra Kumar Singh

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

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 05-02-2019 Heard learned counsels for the petitioner and the State.

The petitioner is languishing in custody since 05.06.2017 in a case registered for the offences punishable under Section 302/34 of the IPC and Section 27 of the Arms Act.

The prosecution case, as per the written report of Rakesh Kumar Gupta, dated 14.01.2013, submitted to the Station House Officer, Runnisaaidpur Police Station, is to the effect that on the same day at about 7.39 A.M., the informant was at his house, in the meantime, one boy came and conveyed that the informant's elder brother, Sunil Gupta and one Nek Mohammad have been shot dead. Thereafter, the informant went to the tea stall of Gonar Sah and found the dead body of his brother and Nek



Mohammad. On enquiry, he came to know that four accused persons came on motorcycle, out of them, one accused person fired on the brother of the informant and other accused person after chasing, fired on Nek Mohammad. The accused persons also left a written note on the spot in support of extremist organization namely, Ajad Hind Fauj. It is further alleged that the petitioner was identified by the wife of Nek Mohammad, namely, Khusmuda Khatoon as one of the accused persons.

It is submitted by learned counsel for the petitioner that that even assuming the accusation to be true, wife of Nek Mohammad has not suggested whether the petitioner resorted to fire, nor has she claimed that she was present at the place of occurrence. It is further submitted that admittedly, the informant was not the eye-witness to the occurrence and from the impugned order, it appears that learned Sessions Judge called for the case diary, but in the case diary, no statement of any eye-witness has been recorded by the investigating officer and the investigation has already been concluded. A statement has been made in paragraph no.3 of the petition that though, the petitioner is involved in eight other cases, but except one case, in all the cases, he is on bail.

Learned APP submits that the petitioner is named in the



FIR.

Considering the fact that the informant is not the eye-witness to the occurrence, nor from the statement of wife of the victim, Nek Mohammad, Khusmuda Khatoon it appears that she saw the petitioner resorting to fire either on her husband or on the elder brother of the informant and the investigation has already been concluded, let the above named petitioner be released on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of like amount each to the satisfaction of learned Chief Judicial Magistrate, Sitamarhi in connection with Runnisaidpur P.S. Case No. 9 of 2013.

Considering the serious criminal antecedent of the petitioner, the learned Court below would be at liberty to cancel the bail bonds of the petitioner if he defaults for two consecutive occasions or if he gets involved in some serious nature of offence.

(Dinesh Kumar Singh, J)

Amrendra/-

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