

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.4558 of 2019

Arising Out of PS. Case No.-42 Year-2018 Thana- KINJAR District- Jehanabad

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Anurag Sharma @ Anu Sharma, Age- 37 years, Gender Male, Son of
Rajendra Sharma, R/O - Siddhipur, P.S.- Khiri, District-Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Nilesh Kumar, Adv. Mr. Ajay Kumar Thakur, Adv. Mr. Pravin Kumar, Adv. Mr. Babita Kumari, Adv.
For the Opposite Party/s	:	Mr. Amit Kumar Rakesh, APP. Mr. Yogesh Chandra Sharma, Sr. Adv. Mr. Sarvadeo Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 30-01-2019 Heard leaned counsels for the petitioner, informant
and the State.

The petitioner is languishing in custody since
25.11.2018 in a case registered for the offences punishable
under Sections 307 of the Indian Penal Code and Sections 25(1-
b)A, 26 and 27 of the Arms Act.

The prosecution case as per the fardbeyan of Kiran
Kumari, recorded by S.I., Sandeep Thakur, Kinjar P.S. dated



09.04.2018 at 05.30 P.M. at Paras Hospital, Patna is to the effect that the informant and her husband, Sunil Kumar are teachers in middle school. It is alleged that on 09.04.2018 at about 12.00 P.M. while the informant and her husband were returning from school to their house, reached near the Lodhipur Village, in the meantime, two persons on a motorcycle came and one of them who was wearing red t-shirt, fired three shots upon the husband of the informant, as a result, the husband of the informant fell down and thereafter, the accused persons resorted to fire upon the informant which hit on the left hand of the informant. Thereafter, the informant and her husband were taken to the hospital, leading to registration of FIR against unknown persons. Statement of the husband of the informant was recorded under Section 164 of the Cr. P.C. after six months of registration of FIR, wherein he expressed the detail of the occurrence including injury caused to him and claimed to have identified the petitioner as the person, who resorted to fire. It is further alleged that the petitioner took Rs. 10 lacs as a loan from the informant's husband for the purpose of performing the marriage of his sister but did not want to return the same and due to that reason, the petitioner attempted to take the life of the informant and her husband.



It is submitted by learned counsel for the petitioner that the informant is cousin mother-in-law of the petitioner and both the petitioner, informant and husband of the informant are known to each other, hence there is no reason not to name the petitioner in the FIR when she claims that she can identify all the assailants by their face on the spot. Immediately, after the occurrence the FIR was registered on 09.04.2018, but the informant does not disclose the name of the petitioner in the FIR. It is further submitted that the statement under Section 164 of the Cr. P.C. was recorded on 11.10.2018 after six months of the registration of the FIR i.e., on 09.04.2018 when the informant for the first time identified the petitioner as an assailant. It has also been stated that the petitioner took a loan of Rs. 10 lacs earlier for the purpose of marriage of his sister, but he did not want to return the same, hence he attempted to take life of the informant and her husband, The statement under Section 164 Cr. P.C. clearly depicts that in fact informant's husband and the petitioner were well known to each other from before. Though the petitioner is accused in two other cases but one of them was lodged by the informant side.

Learned counsel for the informant submits that the statement under Section 164 Cr. P.C. was being recorded after



the informant approached the superior authority, including the Chief Minister of the State. In 164 Cr. P.C. statement, the husband of the informant has clearly stated that the injury was caused by this petitioner, since the petitioner did not want to return the loan amount of Rs. 10 lacs. It is further submitted that the petitioner has serious criminal antecedent and he is also accused in a case registered under Section 302 I.P.C. from before and there is already an order for the speedy trial of this case. Moreover, the investigation has already been concluded and the petitioner has been charge-sheeted. The nature of injury being caused suggests that the petitioner took an attempt to take the life of the husband of the informant who is virtually paralyzed due to the injury caused by the petitioner. Hence, the petitioner does not deserve grant of bail.

Considering the fact that as per the own admission of the informant's husband in statement recorded under Section 164 Cr. P.C. after six months of the occurrence, the petitioner was known to him from before, hence there was no occasion not to name the petitioner in the FIR or in subsequent statement by the informant and husband of the informant, which clouds the bona fide of the accusation, let the above named petitioner 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 **S.D.J.M., Arwal** in connection with **Kinjar P.S. Case No.42 of 2018.**

Since, the petitioner has serious criminal antecedent, the learned Court below would be at liberty to cancel the bail bonds of the petitioner, if the petitioner defaults on three consecutive occasions or gets involved in similar nature of offence.

(Dinesh Kumar Singh, J)

Deepak/Rahul/-

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