

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5570 of 2019

Arising Out of PS. Case No.-346 Year-2017 Thana- BHABHUA District- Kaimur (Bhabua)

Muslim Ansari S/o Late Asgar Ansari. Resident of Village- Khanaw, P.S.-
Bhabua, District- Kaimur at Bhabua.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. K. N. Choubey, Sr. Advocate
For the Opposite Party : Mrs. V.M.K. Sinha, Anurag Saurav, Subhash
Kumar Tiwary, Advocates.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

4 18-07-2019 Heard learned counsel for the petitioner and learned APP
for the State.

The petitioner seeks bail in a case registered under
Sections 302, 307/34 of the Indian Penal Code and 27 of the
Arms Act.

The allegation against the accused persons is of firing
upon the informant and his son as a result of which, the
informant and informant's son sustained fire-arms injury.
During treatment, son of the informant died.

Earlier prayer for bail of the petitioner was rejected vide
Annexure-1 to the application taking into account that the
petitioner had fired upon the deceased causing injury on his
right arm.



It has been submitted on behalf of the petitioner that there is no allegation of tampering of witnesses alleged against the petitioner. The petitioner is in custody since 19-07-2017. Charge sheet has already been submitted. The case has already been committed to the court of Sessions. The petitioner has been falsely implicated in the present case. It has further been submitted that the other co-accused namely, Rustam Ansari has been granted bail by a coordinate bench of this court vide order dated 08-05-2019 passed in Cr. Misc. No. 12595 of 2019. The said accused, namely Rustam had also fired upon the deceased and caused fire-arms injury on the right side of the back of the chest.

Consideration for grant of bail as mentioned in the said order dated 08-05-2019 is as follows:

“There is general and omnibus allegation of firing which caused injury to the informant as well as to the son of the informant. During treatment, son of the informant died.

Submission is that similarly situated some other co-accused have been allowed bail by different Coordinate Benches of this Court vide order at Annexure-3, 4 & 5”.

Two considerations have been made by the coordinate bench of this court for grant of bail to the other co-accused



namely Rustam; First is “general and omnibus allegation” and the second is “other co-accused have been granted bail”.

From perusal of the FIR, it is evident that there is specific allegation against this petitioner and other co-accused Rustam Ansari for firing upon the deceased which led to his death. Hence, the same cannot be treated to be general and omnibus allegation.

For the reasons stated above, I am not inclined to grant bail to the petitioner as the petitioner is one of the assailants.

Accordingly, prayer for bail of the petitioner in connection with Bhabua P.S. Case No. 346 of 2017 corresponding to Sessions Trial No. 353 of 2017/355 of 2017 is rejected.

The trial court is directed to expedite the trial.

(Sudhir Singh, J)

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