

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12446 of 2019

Arising Out of PS. Case No.-176 Year-2018 Thana- GARDANIBAG District- Patna

DINESH YADAV, aged about 40 years, Male, S/o Late Chandrika Rai,
Resident of Mohalla-Balamichak, P.S-Phulwarisharif, District-Patna.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr.Arun Kumar Singh, Advocate.

For the Opposite Party : Mr.Uday Chand Prasad, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL ORDER

7 19-07-2019 A supplementary affidavit has been filed on behalf of
the petitioner. Let it be kept on the record.

Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner is languishing in custody since
23.05.2018 in a case for the offence registered under Sections
302, 120(B)/34 of the IPC and 27 of the Arms Act.

The prosecution story, in brief, is that on the date and
time of occurrence, the petitioner along with co-accused Dilip
Yadav, Ram Pravesh Yadav and Tarun Yadav made
indiscriminate firing with country made pistol causing injury to
the cousin brother of the informant, namely, Dinanath Yadav @
Dina Gope and his other relatives, namely Raju Yadav and
VijayYadav. The informant was at that time talking with all of



them and after hearing the sound of firing, he hide himself behind the tree and saved himself but he has seen the occurrence. He has further stated that two unknown persons were also accompanying the above named four accused persons. Thereafter, he took his injured cousin brother to hospital where he was declared dead in PMCH and two other injured, namely, Raju Yadav and Vijay Yadav were admitted in Paras Hospital in serious condition.

It has been submitted by learned counsel for the petitioner that the petitioner has got no criminal antecedent. Charge sheet has been submitted in the present case. There is no allegation of tampering with the witnesses alleged against the petitioner. The petitioner has falsely been implicated in the present case. In paragraph no. 105 of the case diary, one Surendra Rai, a witness to the F.I.R., made his confessional statement before the police. Later on, the said witness has also been made accused in the present case. As per his confession before the police, he has admitted his guilt. The said Surendra Rai in his confession has not named the petitioner. The allegation of firing upon the deceased has been made against four persons including the petitioner. As per postmortem report, there is only one gun shot injury. One is wound of entry and



other is wound of exit. It has been pointed out by Mr. Arun Kumar Singh, learned counsel appearing for the petitioner, that the bail application of other co-accused, namely, Dilip Yadav @ Dilip Kumar was dismissed by another Co-ordinate Bench of this Court vide Cr. Misc. No. 75986 of 2018 under order dated 21.01.2019 as well as bail application of other co-accused, namely, Ram Pravesh Yadav @ Ram Pravesh Rai has also been rejected by this Court vide Cr. Misc. No. 75675 of 2018 under order dated 25.04.2019 with a direction to the court below to expedite the trial and conclude the same as early as possible, preferably within a period of nine months from the date of receipt/production of copy of the order i.e., 21.01.2019 and 25.04.2019 respectively.

On behalf of learned counsel for the State, it has been submitted that the petitioner is named in the F.I.R. The specific allegation has been made against four persons including the petitioner in respect of firing upon the deceased. As per postmortem report, the deceased sustained firearm injury and because of said injury, he succumbed to death. So far confessional statement of Surendra Rai before the police is concerned, the said confession neither discloses the manner of occurrence nor discloses the manner of assault. Hence, the same



does not have much evidentiary value. The said confession has been recorded under Section 161 Cr. P.C. and not recorded under Section 164 Cr. P.C. As per the prosecution case, the informant is an eye witness to the alleged occurrence and he has made specific allegation against the petitioner in respect of his participation in the alleged occurrence.

Considering the aforesaid facts and circumstances, I am not inclined to grant bail to the petitioner. The same is rejected in connection with Sessions Trial No. 624 of 2018, corresponding to Gardanibagh P.S. Case No. 176 of 2018, pending in the court of learned Fast Track Court-I, Patna.

The learned court below is directed to take all necessary steps to expedite the trial and conclude the same as early as possible, preferably, within a period of nine months from the date of receipt/production of copy of this order.

The District Magistrate, Patna and the Senior Superintendent of Police, Patna, are also directed to ensure that the prosecution witnesses are produced in the court below on the date fixed by the court below so that the trial could be concluded within the stipulated period.

Let a copy of this order be communicated to the District Magistrate, Patna and the Senior Superintendent of



Police, Patna.

In Cr. Misc. No. 75675 of 2018, a direction was given on 25.04.2019 to the learned court below to expedite the trial and conclude the same as early as possible, preferably within a period of nine months from the date of receipt/production of copy of the order i.e., 25.04.2019. The learned court below is directed to comply with the order passed in Cr. Misc. No. 75675 of 2018.

(Sudhir Singh, J)

U.K./-

U		T	
---	--	---	--

