

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19047 of 2019

Arising Out of PS. Case No.-271 Year-2014 Thana- KHAJEKALA District- Patna

=====

SUMIT YADAV, Male, aged about 40 years, Son of Sanjay Kumar Yadav @ Sanjay Yadav, Resident of House No. 57, Rai Jay Krishna Road, Gurhatta, Baxi Mohalla, P.S.- Khajekalan, Patnacity, District- Patna. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s	:	Mr. P. K. Shahi, Sr. Advocate Mr. Pramod Kumar, Advocate
For the Opposite Party/s :		Mr. Anil Prasad Singh, APP
For Informant	:	Mr. Markardhway Upadhyay, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

6 10-07-2019 Heard learned counsel for the parties.

Petitioner seeks bail in a case registered for the offence punishable under Sections 147, 148, 149, 324, 307, 379, 302, 120 B of the Indian Penal Code and Section 27 of the Arms Act.

Earlier, the bail application of the petitioner was rejected vide order dated 25.10.2018 as contained in Annexure-1, giving a liberty to the petitioner to renew his prayer after completing two years of custody in jail.

Informant is widow of deceased Rajesh Kumar who in her written complaint has stated that on 16.11.2014 at about 9 p.m., she along with her son Raja had gone behind the cow shed and a calf was born to one of the cows and her husband Rajesh



Kumar along with his staff Prakash Kumar had gone into the cow shed when suddenly F.I.R. named seven accused along with seven to eight unknown accused entered the cow shed and due to previous enmity made indiscriminate firing as a result of which, he was grievously injured and was being carried to PMCH hospital but he died in the midway. His staff Prakash Kumar also sustained bullet injury and was grievously injured, however, his son fled away and, thereafter, on raising alarm, petitioner and others fled away. It is further alleged that previously two sons of Soni Yadav were also killed and now Rajesh Kumar was killed. They also snatched the golden chain from the neck of deceased. On the said written complaint, F.I.R. was registered on 17.11.2014 at 10.30 a.m.

It has been submitted that the petitioner is innocent and has been falsely implicated in this case on account of admitted enmity. There is no specific allegation against petitioner and allegation against all accused is similar and omnibus in nature. Allegations are false and concocted and FIR has been instituted after much deliberation. Informant is not an eye witness. In the postmortem report, five bullet injuries have been found on the body of deceased. Petitioner is in custody since 16.02.2017 and evidence for prosecution is being led. Prakash Kumar who



was injured in the said incident along with deceased in his deposition although has admitted the incident but has denied involvement of petitioner in said incident, however, he has been declared hostile by the prosecution. Petitioner is accused in other criminal cases also being Khajekalan P.S. Case No.137 of 2012 under Sections 341, 323, 302/34 of IPC and 27 of Arms Act, Khajekalan P.S. Case No.16 of 2017 under Sections 447, 147, 323, 504/34 of IPC and Khajekalan P.S. Case No.141 of 2014 under Sections 384 and 379 of IPC. In all these cases, informant belongs to same family.

Informant has appeared and has vehemently opposed the grant of bail of petitioner on the ground that he is one of the main assailants and is also an accused for killing brother of deceased in which also, he is FIR named and trial is going on.

Considering the aforesaid facts and circumstances of the case and also in view of the fact that petitioner is in custody since 16.02.2017 and the injured eye witness who had sustained bullet injury along with deceased has denied involvement of petitioner in this incident and also in view of the fact that there is old enmity between the parties and in all other three remaining cases in which petitioner has been made accused, informant belongs to same family, let the petitioner named



above be released on bail upon furnishing bail bond of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of learned court below where the case is pending in connection with S. Tr. No.446 of 2017 arising out of Khajekalan P.S. Case No. 271 / 2014, with following conditions:-

(1) Bailors should be local having sufficient immovable property within the jurisdiction of the court concerned.

(2) Petitioner shall co-operate in the trial and shall remain present on each and every date during trial and in his absence on two consecutive dates, the trial court is at liberty to cancel his bail bond.

(3) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(4) Before releasing petitioner on bail the trial court shall verify that he is not accused in any other case apart from the three cases as mentioned above.

(S. Kumar, J)

Sanjay/-

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

