

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18342 of 2019**

Arising Out of PS. Case No.-157 Year-2018 Thana- UJIYARPUR District- Samastipur

ABHISHEK KUMAR Son of Rajendra Singh Resident of Village - Harpur
Bhindi, P.S.- Tajpur, District - Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vishwanath Prasad Singh, Sr. Advocate
Mr.Pramod Kumar Singh
For the Opposite Party/s : Mr.Mukeshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

2 29-03-2019 Heard learned counsels for the petitioner and learned
APP for the State.

The petitioner is languishing in custody since 15.07.2018 in a case registered for the offences punishable under sections 302/34 of the Indian Penal Code and 27 of the Arms Act.

The prosecution case as per the Fardbeyan of Kumari Mamta Bharti recorded by S.I. Manoj Kumar Singh, SHO, Ujiarpur Police Station on 08.07.2018 at 9.20 A.M. to the effect that on 07.08.2018 at 1.30 P.M., when the informant was sleeping in her house, in the meantime, co-villagers and neighbouring people came and said that the husband of the



informant is lying with gunshot injury in Godariya orchard. When the informant went there, she found her husband was lying in unconscious state on the ground and blood was oozing out from his body. It is alleged that the neighbouring people conveyed the informant that two unknown motorcycle borne criminals shot at the husband of the informant. Subsequently, the husband of the informant was taken to the hospital, where the doctor declared him dead. Though the FIR was lodged against unknown, but during course of investigation, the petitioner's name sprang up. The petitioner has also confessed his guilt.

It is submitted by learned Sr. counsel for the petitioner that in the background of land dispute, the accusation has been levelled against the petitioner. Moreover, there is no eye witness to the occurrence and the confession of petitioner has been forcibly obtained by the police. It is further submitted that similarly situated co-accused Pankaj Sharma, who has also made confession, has been granted bail by this Court vide order dated 03.01.2019 passed in Criminal Miscellaneous No. 69193 of 2018, whereas co-accused Raj Kumar Singh and Vijay Kumar, have been granted bail by different Co-ordinate Benches of this Court vide order dated 17.01.2019 and 21.01.2019, passed in Criminal Miscellaneous No. 2211 of



2019 and Criminal Miscellaneous No. 2518 of 2019 respectively. It is further submitted that though the petitioner is accused in four other cases apart from the present case, but out of four cases, in three cases, he is on bail and in one case he has been acquitted.

Learned APP for the State submits that neither any recovery has been made in pursuance to the confession of the petitioner nor there is any eye witness to the occurrence.

Considering the suspicious nature of accusation based on circumstantial evidence and there is no eye witness to the occurrence, coupled with statement made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent, 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 ACJM, Dalsingsarai, in connection with Ujiyarpur P.S. Case No.157/2018.

(Dinesh Kumar Singh, J)

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