

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.77584 of 2018

Arising Out of PS. Case No.-227 Year-2016 Thana- DIGHA District- Patna

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Dharmendra Kumar S/o Raj Kumar Yadav, R/o Village.- Dosiyan Tola, P.S.-
Naubatpur, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sheo Nandan Pandit, Advocate
For the State : Mr. Sunil Kumar Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 07-02-2019 Heard learned counsel for the petitioner and

learned counsel for the State.

The petitioner seeks pre-arrest bail in connection with Digha P.S. Case No. 227 of 2016 registered under Section 302 read with 34 of the Indian Penal Code and Section 27 of the Arms Act.

Referring to the order dated 28.07.2017 passed in ABP No. 6678, 6995 and 7805 of 2016 whereby the respective applications for grant of pre-arrest bail to the petitioner Dharmendra Kumar, Vikky Kumar and Sanjay Kumar Sah has been rejected by the learned Additional Sessions Judge-X, Patna, learned counsel for the petitioner submitted that though the petitioner Dharmendra Kumar is not named in the FIR, his name transpired in course of investigation in the confession



made by co-accused Shambhu Kumar before police wherein he has stated that it was the accused Manoj, who fired from his country made pistol resulting into death of Dr. Afzal. He also confessed that it was the petitioner and co-accused Shambhu Kumar and Vikky Kumar, who had provided the pistol to accused Manoj. He contended that apart from the confession made by the co-accused Shambhu Kumar, there is no other material to connect the petitioner with the offence alleged. The another co-accused Vikky Kumar, whose name was also disclosed by co-accused Shambhu Kumar, in his confession made before the police, has already been granted pre-arrest bail vide order dated 07.12.2017 passed in Cr. Misc. No. 57457 of 2017.

Per contra, learned counsel for the State submitted that since the petitioner is not named in FIR, it cannot be said at this stage that apart from the confession made by co-accused Shambhu Kumar, there is no material against him. He contended that the deceased was a doctor and was killed for which an FIR against unknown persons was registered and the name of the petitioner transpired in course of investigation. Since the offence is grave and the investigation is still going on, it would not be proper to grant pre-arrest bail to the petitioner.



I have learned counsel for the parties and perused the record.

It is true that the learned Sessions Judge has noted in his order whereby he has rejected the application for grant of pre-arrest bail to the petitioner that name of the petitioner was disclosed by co-accused Shambhu Kumar in his confessional statement along with co-accused Vikky Kumar and Manoj. It is also true that Vikky Kumar has been granted pre-arrest bail by a co-ordinate Bench of this Court. However, it is not known what other materials have been collected by the police in course of investigation. Since the investigation is still going on and the police may require the petitioner's custodial interrogation, looking at the gravity of the offence, I am not inclined to grant him pre-arrest bail.

The application for grant of pre-arrest bail to the petitioner is rejected.

(Ashwani Kumar Singh, J)

Md. S/SKSuman.

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