

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25761 of 2019

Arising Out of PS. Case No.-376 Year-2018 Thana- UDAKISHUNGANJ District-
Madhepura

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Shobha Kant Yadav @ Shoman Yadav, S/O Late Deo Narayan Yadav,
Resident of Village- Laskari, P.S.- Uda-Kishunganj, District- Madhepura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Bimal Kumar Jha
For the Opposite Party/s : Mr.Amitesh Kumar

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

3 31-07-2019 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner who is in custody since 19.12.2018 has
filed this application for grant of bail in connection with Uda-
Kishunganj P.S. Case No. 376 of 2018 registered for the offence
under Sections 302, 379 and 34 of the Indian Penal Code and
Section 27 of the Arms Act.

As per the allegation in the F.I.R, it is stated that on
the date of occurrence the accused persons came variously
armed and it is further alleged that Basant Yadav fired on
Amrendra Kumar as a result of which he died. Thereafter, it is
alleged that Amrendra Yadav who was along with the deceased
was threatened with dire consequences . Finally it is stated that



Raj Kumar Mandal and Sobha Kant Yadav, the petitioner herein, ran away shouting that his son had taken revenge of being sent to jail.

It is submitted by learned counsel for the petitioner that from perusal of the F.I.R. itself it would transpire that the informant is not an eye witness, the petitioner is in custody since 19.12.2018, the so called eye witness Akhilesh Yadav has not alleged any role of overt act to this petitioner and that co-accused Raj Kumar Mandal had been granted bail vide order dated 26.02.2019 passed in Criminal Misc. No. 11395 of 2019.

The application for bail was opposed by learned counsel for the informant as well as learned A.P.P. for the State. It was submitted on behalf of the informant that the petitioner has played an active role in the occurrence. The trial has proceeded and five prosecution witnesses have already been examined and, as such, it is not a fit case for the grant of bail to the petitioner. On query by the Court it was submitted by learned counsel for the informant that the F.I.R. named eye witness Akhilesh Yadav has already been examined in course of trial but he has not alleged any specific overt act against this petitioner.

Having heard learned counsel for the parties and



taking into consideration, the facts and circumstances of the case, the period of the petitioner being in custody since 19.12.2018 and that co-accused Raj Kumar Mandal has been enlarged on bail, the Court is inclined to enlarge the petitioner on bail. Let the petitioner, above named, be enlarged on bail on furnishing bail bond of Rs.10,000/- with two sureties of the like amount each to the satisfaction of learned A.C.J.M., Uda-Kishunganj, District Madhepura in Uda-Kishunganj P.S. Case No. 376 of 2018.

In view of the fact that the trial of the petitioner has proceeded and five prosecution witnesses have been examined, it is directed that the petitioner shall remain personally present in the court below on each and every date in course of trial, and in case he is absent on two consecutive dates for reason not to the satisfaction of the learned court below, the court below shall proceed to cancel the bail of the petitioner and take him in custody.

(Partha Sarthy, J)

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