

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26729 of 2019

Arising Out of PS. Case No.-656 Year-2018 Thana- HILSA District- Nalanda

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Mahesh Prasad Son of Late Jeeval Mahto Resident of Village - Dharampur,
P.S.- Hilsa, Distt.- Nalanda.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Singh, Adv.

For the Opposite Party/s : Mr. Yogendra Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

4 14-08-2019 Learned counsel for the petitioner seeks permission

to make correction in prayer portion of the petition as Sessions

Trial number has not been stated.

Let the same be done in course of the day.

Heard learned senior counsel for the petitioner and

learned APP for the State.

The petitioner has prayed for grant of bail in

connection with Hilsa P.S. Case No. 656 of 2018 registered for

the offence punishable under Sections 302, 120-B and 34 of the

Indian Penal Code and Section 27 of the Arms Act.

As per the allegation in the FIR, it is stated by the

informant, who happens to be the wife of the deceased that on

hearing the sound of gun-shot, she reached near her husband,

who disclosed that Nitish Kumar had fired upon him and



subsequently he died. She further named four persons including this petitioner, whom she saw running away, having pistol in their hand.

It is submitted by learned senior counsel for the petitioner that admittedly the informant is not an eye witness to the occurrence. As per FIR, the allegation is on Nitish Kumar and not against the petitioner and so far as the post-mortem report is concerned, from perusal of the same, it would transpire that no gun shot injury has been found rather the cause of death is said to be hemorrhagic shock due to piercing from sharp object. It is further submitted that the petitioner is in custody since 07.12.2018 and has no criminal antecedent.

It is submitted by learned counsel for the informant that admittedly from perusal of the FIR, it transpires that all the accused persons including this petitioner were present there. Informant has categorically named the petitioner who was also seen fleeing away having pistol in his hand. It is further submitted that case has proceeded and charge has been framed on 24.07.2019.

Having heard learned counsel for the parties and taking into consideration that although the allegation in the FIR is of gun-shot injury, which is not supported by the post-mortem



report, this court is inclined to enlarge the petitioner on bail. The above named petitioner is directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Rs. ten thousand only) with two sureties of the like amount each to the satisfaction of the learned Additional District and Sessions Judge IInd, Hilsa, Nalanda in S.Tr. No. 218 of 2019 arising out of Hilsa P.S. Case No. 656 of 2018.

However, in view of the fact that charge has been framed in the case on 24.07.2019, it is directed that the petitioner shall remain present in court on each date of trial and in case of absence on two consecutive dates for reasons not to the satisfaction of the court below, bail granted to the petitioner shall be cancelled and he shall be taken into custody till conclusion of the trial.

(Partha Sarthy, J)

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