

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30064 of 2019

Arising Out of PS. Case No.-113 Year-2018 Thana- PIRBAHOR District- Patna

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Faisal @ Mumtaz Ahmad Son of Late Aziz Ahmad Resident of Dariyapur
Langer Toli, P.S.- Pirbahore, Distt - Patna.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr.Pramod Kumar

For the Opposite Party/s : Mr.Dilip Kumar No. 1

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 23-05-2019 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner seeks bail in connection with
Pirbahore P.S. Case No. 113 of 2018 registered under Sections
302/34 and 326 of the Indian Penal Code and Section 27 of the
Arms Act.

It is submitted by the learned counsel for the
petitioner that the First Information Report (for short 'FIR') of
this case is actually not the first report regarding commission of
the offence. The fardbeyan on the basis of which the case has
been registered is hit by Section 162 of the Code of Criminal
Procedure. The averments made in the FIR itself would indicate
that the alleged offence took place on 03.03.2018 between 11.00



a.m. and 4.00 p.m. and when the informant came to know that his brother Wakil Ahmad has been killed near Dariyapur Mosque and the body was kept at PMCH, Patna for the purpose of identification, he went to Dariyapur Mosque and inquired from local people, saw CCTV footage and after that he gave his fardbeyan at T.O.P. PMCH, which was recorded by a Sub-Inspector of Police wherein he has stated that in the CCTV footage he has seen that the petitioner and one Chintu had stabbed his brother Wakil Ahmad as a result of which he died. He identified the body of his brother. He contended that the very fact that the offence had taken place near Dariyapur Mosque from where the body was brought to the PMCH where it was kept for the purpose of identification would indicate that the police had prior information about the occurrence and under this circumstance the institution of the FIR on the basis of statement given after four hours of the occurrence is itself nothing but implication of the petitioner in a planned manner on the basis of preliminary investigation done by the informant when the investigation had already commenced.

Learned counsel for the State opposed the application for grant of bail. He contended that this is not the stage to consider the legality and validity of the FIR. He submitted that it



is true that the place of occurrence is near Dariyapur Mosque and the fardbeyan of the informant was recorded at PMCH, Patna where the body was brought from the place of occurrence, but the reliability of the FIR instituted on the basis of the fardbeyan given by the informant after four hours of the occurrence cannot be doubted. The informant has alleged that he has seen in the CCTV footage that the petitioner and Chintu were running away from the place of occurrence.

Having regard to the facts and circumstances of the case, the petitioner, who is in custody since 02.07.2018, is directed to be released on bail on furnishing bail bond of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Patna in connection with Pirbahore P.S. Case No. 113 of 2018, subject to the conditions :

(a) that the petitioner shall attend court in accordance with the conditions of the bond executed;

(b) that the petitioner shall not commit an offence similar to the offence of the present case; and

(c) that the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from



disclosing such facts to the Court or to any police officer or
tamper with the evidence.

(Ashwani Kumar Singh, J)

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