

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.34480 of 2019

Arising Out of PS. Case No.-674 Year-2018 Thana- JAMUI District- Jamui

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Mukesh Yadav, aged about 30 years, male, Son of Nageshwar Yadav, Resident of Village - Kundar, P.S.- Chanan, District- Lakhisarai.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pankaj Kumar Sinha, Adv.

For the Opposite Party/s : Md. Ram Priya Sharan Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

4 06-09-2019 Heard the learned counsel for the petitioner and the State.

2. The petitioner seeks bail in connection with Jamui (Adarsh Thana) P.S. Case No. 674 of 2018, dated 30.12.2018, instituted for the offences under Sections 302, 120(B) and 34 of the Indian Penal Code and Section 27 of the Arms Act.

3. The F.I.R. has been lodged by the brother of the deceased on 30.12.2018 alleging that he saw his brother



going towards some direction on 28.12.2018 and before leaving for his destination, he had told his brother/informant that he is going to a neighbouring village along with the petitioner. Later, the informant heard a sound of firing and when he rushed to the place of occurrence, he saw the bullet ridden body of his brother. The informant suspected the hand of the petitioner.

4. The learned counsel for the petitioner has submitted that beyond the aforesaid suspicion, there is no material in the entire police papers which could point towards the guilt of the petitioner. It has further been submitted that the story as narrated in the F.I.R. is not plausible as the occurrence is said to have been taken place on 28.12.2018, but the report as regards the same has been lodged on 30.12.2018. This delay in approaching the police station lends credence to the defense of the petitioner that the informant, who is the brother of the deceased was not an eye-witness to the occurrence. Had he been the eye-witness to the occurrence also, the narration made in the F.I.R. does not indicate the reason for suspecting the petitioner.



5. The order impugned reveals that four of the witnesses, whose statements have been recorded in paragraph 5, 6, 7 and 10 of the case diary, have spoken against the petitioner. Paragraph 5 of the case diary contains the further statement of the informant, who has not improved upon his story as narrated in the F.I.R. Paragraph 6 and 7 of the case diary contain the statements of one Sunil Kumar Yadav and Bipin, who is another brother of the deceased as well as the informant and both of them have only raised suspicion against the petitioner. One Mahangu Yadav, whose statement has been recorded in paragraph 10 of the case diary does not even name the petitioner as having been seen along with the deceased, but he only came to learn about the occurrence after it had been committed.

6. It has been urged on behalf of the petitioner that he is languishing in custody since 31.12.2018 on such bleak evidence and, therefore, he deserves to be granted bail.

7. Considering the fact that the accusation of the petitioner is based solely and merely on suspicion and there



is no direct material connecting him with the offence and taking into account his period of custody, this Court is inclined to grant bail to the petitioner.

8. Let the petitioner/Mukesh Yadav be released on bail on his furnishing bail bond in the sum of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Jamui, in connection with Jamui (Adarsh Thana) P.S. Case No. 674 of 2018.

9. The application stands allowed.

(Ashutosh Kumar, J)

Praveen-II/-

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