

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35011 of 2019

Arising Out of PS. Case No.-33 Year-2019 Thana- BALRAMPUR District- Katihar

MD. ZAHOOR ALAM @ ZAHOOR ALAM Son of Mozahir @ Shekh
Mojahir Resident of Village- Baluganj, P.S.- Balrampur, District- Katihar.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Malay Kumar Choudhary

For the Opposite Party/s : Mr.Parmanand Kumar

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

4 08-08-2019 Heard learned counsel for the petitioner and the
learned APP for the State.

The petitioner seeks bail in Balrampur (Telta) P.S.
case no. 33 of 2019 instituted for the offence under Section(s)
302, 120B/34 of the Indian Penal Code and section 27 of the
Arms Act .

In the written report, it is alleged that on the date of
occurrence the brother of informant, namely, Khusdil was
returning home by motorcycle and as soon as he reached at the
semi constructed road near *Aathaish Bansh* bush he heard
sound of 2-3 round of firings. Thereafter the motorcycle of his
brother got stopped. It is further alleged that informant reached
at the place of occurrence along with his family members and
neighbours and found his brother lying on the ground. He



was screaming and told the informant that co-accused Garib Nawaz and his brother Zahoor Alam (petitioner) and Sanjiv Mishra have killed him. He wanted to speak more but he could not speak. The informant attempted to take him for treatment but within 3-4 minutes he died.

The cause of occurrence is that co-accused Garib Nawaj was apprehended three years back in a case in connection with smuggling of Ganja. He was under impression that brother of informant Khusdil got him arrested and since then he was giving threat of dire consequence to the informant and his brother.

Case diary has been received.

Learned counsel for petitioner submits that in the case diary besides the informant no other witness has stated that deceased told them that this petitioner with other two accused persons have caused injury to him. He further submits that in the confessional statement of this petitioner, he has levelled specific allegation against his bother co- accused Garib Nawaz of causing firearm injury to the brother of informant. He further submits that confessional statement of Garib Nawaj has been recorded, wherein, he confessed to have fired 3-4 shots on the deceased and thereafter he along with his brother



Jahoor Alam (petitioner) fled away. Learned counsel for petitioner submits that informant is not an eye witness. The other witnesses examined are also not an eye -witnesses.

Learned APP for the State submits that the informant in his further statement in para 2 of the case diary has stated that when he along with villagers and family members reached near his brother he found his brother screaming and told that co-accused Garib Nawaz along with this petitioner and Sanjeev Mishra have fired shot on him. He further submitted that son of the deceased Sarfaraj has stated in his evidence at paragraph no. 42 that when he reached at the place of occurrence he saw his uncle Turab Ali weeping and found his father lying dead on the road. His uncle told him that when he reached he found his brother (victim) screaming and told him that Garib Nawaz, and his brother Zahoor Alam (petitioner) and Sajeew Mishra have killed him. He submits that other witnesses in paragraph no. 7,8,43,61,64 and 65 of the case diary have stated that when they reached at the place of occurrence, they saw that Khushdil was lying dead having sustained gun shot injury.

The doctor, in the postmortem report, found fire arm injuries as well as injuries caused by sharp cutting weapons on



the person of deceased. The cause of death has been opined by the doctor due to fire arm injury (gun sort) and sharp cutting weapon.

In such circumstances, this Court is not inclined to grant bail to the petitioner at this stage. The prayer for bail of the petitioner stands rejected.

Trial Court is directed to expedite the trial and make efforts to conclude the same as early as possible preferably within a period of nine months from the date of receipt of copy of this order.

Petitioner may renew his prayer for bail in the event trial is not concluded within the aforesaid period.

(Sanjay Priya, J)

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