

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39125 of 2019

Arising Out of PS. Case No.-269 Year-2018 Thana- HATHAURI District- Muzaffarpur

RAJ KUMAR SINGH, Son of Late Genalal Singh, Resident of Village -
Bhadoi, P.S. Hathauri, District - Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Advocate Mr. Pravin Kumar, Advocate Ms. Swati Sinha, Advocate
For the Informant	:	Mr. Ravi Ranjan, Advocate
For the Opposite Party/s	:	Mr. Mithlesh Kumar Khare, A.P.P.

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

5 25-09-2019 Heard learned counsel for the petitioner and learned
APP for the State.

Petitioner seeks bail in a case registered for the
offences punishable under Sections 302/34 of the Indian Penal
Code and Section 27 of the Arms Act.

Informant is full-brother of the deceased. According
to first information report, a feast was going on in the house of a
co-villager. Deceased Ram Krishna Sharma @ Laddu Singh was
also participating therein. The informant saw that the petitioner
and his son Avinash Kumar @ Chandan took out their pistols
and made indiscriminate firing at Ram Krishna Sharma @
Laddu Singh as a result whereof he died on 21.12.2018 at 06:45
p.m. The written report was submitted to the police on



22.12.2018 and FIR was lodged on 22.12.2018 itself.

However, the case diary would reveal that the police reached at the place of occurrence on 21.12.2018 itself and prepared the inquest report. In para 6 of the case diary, the police has stated that near the place of occurrence he found the empty cartridges which were seized in presence of the villagers and the dead body was sent for postmortem with the permission of the family members of the deceased. However, the informant gave a written report on 22.12.2018 and thereafter FIR was lodged.

On the basis of aforesaid material, learned counsel for the petitioner submits that the entire FIR appears to have been lodged after deliberations and consultations because everyone was there when the police reached at the place of occurrence but no one disclosed name of the assailants to the police. Learned counsel further submits that during investigation of the case, some witnesses claimed to be eyewitness of the occurrence. However, in para 15 of the case diary, one of the witnesses stated that only Chandan was firing whereas in para 16 of the case diary, another witness stated that both were firing at the deceased.

Learned counsel for the informant opposed the prayer



for bail on the ground that in para 15 of the case diary, the witness is specific that initially he heard the sound of firing and when he reached at the place of occurrence, he saw that accused Chandan was firing at the deceased.

Since firing was heard by the informant and the said firing might have been caused by the petitioner, who was also present at the time of occurrence, accordingly, the police apprehended the petitioner. Therefore, at the stage of bail, the meticulous appreciation is not permissible.

If during trial of the case, meticulous appreciation of evidence is needed to prove the charge against the accused beyond reasonable doubt, there is no reason to not adopt the same principle while curtailing the fundamental right of the accused and putting him behind the bar as under trial prisoner.

Hence, let the petitioner, above named, be released on bail on furnishing bail bond of Rs.20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Court below where the case is pending in connection with Hathauri Police Station Case No. 269 of 2018, subject to the following conditions:-

(a) The petitioner shall fully cooperate with the investigation/trial of the case, failing which the learned court



below shall be at liberty to cancel the bail bond of the petitioner.

(b) Both the bailors shall be resident of the territorial jurisdiction of the learned court below.

(Birendra Kumar, J)

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