

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39574 of 2019

Arising Out of PS. Case No.-644 Year-2018 Thana- KOTWALI District- Patna

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DABLU MUKHIYA @ MD. NAZIM Son of Late Md. Nizam Resident of
Mohalla- Dariapur Koiri Tola, Police Station- Pirbahore, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Akhauri Kamal Kishore Sahay, Advocate
For the Opposite Party/s : Mr. Ashok Kumar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

4 26-09-2019 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 302/120B of the Indian
Penal Code and Section 27 of the Arms Act.

According to FIR, the petitioner and other named
persons are suspected to have committed murder of the husband
of the informant for land dispute. The occurrence allegedly took
place on 21.09.2018. The man, who was accompanying the
deceased, namely, Md. Hasan Ali, was examined by the police
on 23.09.2018 and he stated that he had seen the occurrence that
some miscreants fired at the deceased and fled away towards
Sinha Library. While the accused were fleeing he claims to have
identified and the petitioner was also one of them. Thereafter, on
02.11.2018 another eyewitness was examined by the police and



he stated that the petitioner is assailant of the deceased.

Learned counsel for the petitioner submits that on the identical material co-accused Anzar Khan and Farooque Azam have already been allowed bail by a Coordinate Bench of this Court vide order dated 13.05.2019 passed in Cr. Misc. No. 69945 of 2018 and Cr. Misc. No. 72122 of 2018 (Annexure-2) and co-accused Tarik Malik has been allowed bail by another Coordinate Bench of this Court vide order dated 07.03.2019 passed in Cr. Misc. No. 11284 of 2019 (Annexure-2/1).

Learned counsel for the informant opposed the prayer for bail on the ground that the petitioner is accused in several serious cases including case under Section 302 of the Indian Penal Code. One of the witnesses have claimed that the petitioner was the main and real assailant of the deceased. Therefore, the case of the petitioner is distinguishable from others. He further submits that the trial is under progress and some prosecution witnesses have already been examined.

Considering the facts that some other co-accused have been allowed bail in this case and also considering the fact that the eyewitness who claims to have seen the petitioner firing at the deceased turned up before the police after two months of the occurrence, hence, for the purpose of consideration of this



prayer there is doubt in the prosecution version. Petitioner is in custody since 06.11.2018.

Considering the facts aforesaid, 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 Sessions Trial No. 346 of 2019 arising out of Kotwali Police Station Case No. 644 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 having immovable property.

(Birendra Kumar, J)

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