

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40299 of 2019

Arising Out of PS. Case No.-302 Year-2018 Thana- SAHPUR District- Bhojpur

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KISHUN MISHRA @ KISHUN KUMAR MISHRA Son of Sri Shivajit
Mishra Resident of Village - Sonbarsa, P.S.- Sahpur, District - Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Singh

For the Opposite Party/s : Mr. Anish Chandra

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**CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA
JAISWAL**

ORAL ORDER

4 21-08-2019 Heard learned counsel for the petitioner, learned
counsel for the informant and learned A.P.P. for the State.

The petitioner apprehend his arrest in a case
registered for the offences punishable under Sections 302 and
120 B/34 of the Indian Penal Code and Section 27 of the Arms
Act.

During course of regressing after harvesting maize
crops by the informant along with his son, petitioner along with
four other named accused persons started indiscriminate firing,
resultantly the son of the informant, namely, Kamal Kishore
Mishra died on the spot while one another person, namely,
Amar Nath Mishra sustained firearm injury and is undergoing
treatment as the deceased was main witness in the murder case



of Bisheshwar Ojha. Earlier to this, his son was threatened by Shivjit Mishra and Haresh Mishra from the jail.

It is submitted by learned counsel for the petitioner that the petitioner is quite innocent and has been falsely implicated in this case merely because he has lodged Sahpur P.S. Case No.90 of 2017 against the informant, deceased and other witnesses. The allegation levelled against the petitioner is not specific rather general and omnibus in nature. He has no concern with the aforesaid occurrence. Hence, he may be enlarged on bail.

Per contra, learned counsel for the informant and learned APP for the State vehemently opposing the prayer for bail submitted that the informant happens to be eye witness of the occurrence. He has supported the occurrence. Besides the informant several witnesses have also supported the occurrence and complicity of the petitioner in the occurrence. The doctor conducting the autopsy of the cadaver of the deceased has found altogether seven wound of entries and three wound of exit on the person of the deceased and extricated four pellets from his person and handed over it to the chaukidar. It is further submitted that the regular bail of co-accused, namely, Uma Shankar Mishra and anticipatory bail of co-accused, namely,



Mukteshwar Mishra has been rejected by different co-ordinate Bench of this Court. Hence, the petitioner does not deserve bail.

Considering the facts and circumstances of case, I am not inclined to enlarge the petitioner on bail. The prayer for bail of the petitioner is hereby rejected. However, the petitioner is directed to surrender before the learned Court below within six weeks from today and seek regular bail and the learned Court below would pass order in accordance with law without being prejudiced by this order.

(Prakash Chandra Jaiswal, J)

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