

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69627 of 2018

Arising Out of PS. Case No.-469 Year-2015 Thana- MADHEPURA District- Madhepura

Ajay Kumar @ Rudan Kumar, Son of Dharamlal Yadav, Resident of Village-Turkahi Navtolia, Police Station-Madhepura (Bharrahi O.P.), District-Madhepura.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr.Surya Narayan Yadav, Advocate.
For the Opposite Party : Mr. Ajay Kumar Jha, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

4 06-03-2019 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner is languishing in custody since 23.01.2016 in connection with Madhepura (Bharrahi O.P.) P.S. Case No. 469 of 2015, corresponding to S.T. No. 126 of 2017 for the offence registered under Sections 302/34 of the IPC and 27 of the Arms Act.

The prosecution story, in brief, is that on 15.08.2015, the informant's son, namely, Madhuranjan (deceased) went to his sister's house and stayed there as his brother-in-law (Subhash Kumar) was suffering from fever. On 16.08.2015, when he was taking bath at the *Tube Well* of *Darwaja*, 16-17 persons being armed with weapons surrounded him and started to



indiscriminately fire, as a result of which, he fell on the earth and died. Accused Laxman Yadav also fired on the body of the deceased. On information, the police arrived and arrested some persons.

The bail application of the petitioner was rejected earlier on two occasions i.e., vide Cr. Misc. No. 23621 of 2016 order dated 07.09.2016 and Cr. Misc. No. 24917 of 2017 order dated 30.08.2017 taking into account that an eye witness in paragraph no. 24 of the case diary had stated that the petitioner fired upon the deceased. The postmortem report also supported the statement made by the said eye witness.

This is third attempt for grant of bail on behalf of the petitioner.

A report was called for from the learned court below. It has been reported that out of 08 charge sheeted witnesses, 05 witnesses have been examined till date. The petitioner is in custody since 23.01.2016. There is no allegation of tampering with the witnesses alleged against the petitioner. The said eye witness who was examined in paragraph no. 24 of the case diary, namely, Subhash Kumar has been examined in course of trial as P.W. 4. The deposition of P.W. 4 vide Annexure-4 to the present application. The said P.W. 4 has retracted from his



earlier statement made under Section 161 of Cr. P.C. In his evidence before the learned trial court, neither he has admitted to be an eye witness nor he has named this petitioner.

On behalf of the learned counsel for the State, it has been submitted that the petitioner is named in the F.I.R.

Considering the evidence of P.W. 4 who is sole witness to the alleged occurrence, let the petitioner above named, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned A.D.J.-II, Madhepura, in connection with Madhepura (Bharrahi O.P.) P.S. Case No. 469 of 2015, corresponding to S.T. No. 126 of 2017.

(Sudhir Singh, J)

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