

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75675 of 2018

Arising Out of PS. Case No.-176 Year-2018 Thana- GARDANIBAG District- Patna

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Ram Pravesh Yadav @ Ram Pravesh Rai Son of Sri Lal Babu Rai, resident of
Village- Ballamichak, Police Station- Phulwarisharif, District- Patna.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Soni Shrivastava

For the Opposite Party/s : Mr.Md. Ashlam Ansari

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

4 25-04-2019 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner seeks bail in a case registered under
Sections 302, 120(B)/34 of the Indian Penal Code and 27 of the
Arms Act.

The prosecution case, in brief, is that the informant with
deceased had gone to attend a marriage ceremony where one
Rajan had received injury in a quarrel. Next day, in the early
morning, while the informant and others had gone for treatment
in Nursing Home, the accused persons including the petitioner
variously armed came there and fired. The deceased sustained
fire-arms injury and was brought to the hospital where he was
declared to be dead.

It has been submitted on behalf of the petitioner that the



petitioner has got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the petitioner. The petitioner is in custody since 29-05-2018. Charge sheet has already been submitted. The petitioner has falsely been implicated in the present case. In paragraph-105 of the case diary, one Surendra Rai, a witness to the FIR, made his confessional statement before the police. Later on, the said witness also has been made accused in the present case. As per his confession before the police, he has admitted his guilt. The said Surendra Rai in his confession has not named the petitioner. The allegation of firing upon the deceased has been made against four persons including the petitioner. As per postmortem report, there is only one gun shot injury. One is wound of entry and other is wound of exit. It has been pointed out by Mr. Jitendra Singh, learned Senior counsel appearing for the petitioner that the bail application of the co-accused namely, Dileep Yadav, was dismissed by a coordinate bench of this court with a direction to the court concerned to conclude the trial, preferably, within a period of nine months.

On behalf of the State, it is submitted that the petitioner is named in the Complaint Case/F.I.R. The specific allegation has been made against four persons including the petitioner in



respect of firing upon the deceased. As per postmortem report, the deceased sustained fire arms injury and because of said injury, he succumbed to death. So far confessional statement of Surendra Rai before the police is concerned, the said confession neither discloses the manner of occurrence nor discloses the manner of assault. Hence the same does not have much evidentiary value. The said confession has been recorded under Section 161 Cr.P.C. and not recorded under Section 164 Cr.P.C. As per the prosecution case, the informant is the an eye witness to the alleged occurrence and he has made specific allegation against the petitioner in respect of his participation in the alleged occurrence.

Considering the aforesaid facts and circumstances, I am not inclined to grant bail to the petitioner. Accordingly, prayer for bail of the petitioner in connection with Gardanibagh P.S. Case No. 176 of 2018 is rejected.

The trial court is directed to take all necessary steps to expedite the trial and conclude the same as early as possible, preferably within a period of nine months from the date of receipt/production of copy of this order.

The District Magistrate and the Sr. Superintendent of Police, Patna are directed to ensure that the prosecution



witnesses are produced on the date fixed by the trial court so that the trial could be concluded within the stipulated period.

Let copy of this order be communicated to the District Magistrate and the Sr. Superintendent of Police, Patna for needful.

(Sudhir Singh, J)

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