

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76646 of 2018

Arising Out of PS. Case No.-178 Year-2017 Thana- KOCHAS District- Rohtas

Shivanand Gupta, Son of Late Rama Shankar Gupta, Resident of Mohalla-
New Area Mangala Bhawan Sasaram, P.S. Sasaram (T), Distt.-Rohtas.

... .. Petitioner

Versus

The State Of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Rameshwar Singh, Advocate.
For the Opposite Party : Mr. Binod Kumar 2, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 09-04-2019 Heard learned counsel for the petitioner, learned
counsel for the informant and learned A.P.P. for the State.

The petitioner is languishing in custody since
23.07.2018 in a case for the offence registered under Sections
341, 323, 307, 302, 120(B), 109, 504 of the IPC and 27 of the
Arms Act.

The prosecution story, in brief, is that on the alleged
date and time of occurrence, informant Santosh Sah, his mother
Bimla Devi and father Baban Sah were sleeping in their Mill
and at about 12.00 O'clock of the midnight, 5-6 persons came at
his Mill and asked his father that where is Santosh. The
informant's father said that he is not present here. Thereafter,
co-accused Sitaram Sah and Anand Kumar instigated to assault,
then co-accused Dewanand Gupta fired on the leg of



informant's father and Birendra Sah on the hand of the informant's father and accused Dularchand Sah has fired on his father from back side, seeing the occurrence the informant's mother started to cry then the co-accused Umesh Chandra Gupta assaulted her mother by means of rifle butt due to which his mother head was fractured and she became unconscious. All the occurrence was seen by the informant from the window in the light of Bulb which was lightened in the Mill. The accused persons also broken the door of the informant. The informant any how managed to flee away from back side of the Mill and make himself hidden in the paddy field.

It has been submitted by learned counsel for the petitioner that the petitioner has falsely been implicated in the present case. Charge sheet has been submitted in the present case. There is no allegation of tampering with the witnesses alleged against the petitioner. There is no substantive evidence to suggest the implication of the petitioner in the present case. In course of investigation, it has come that one Makhan @ Sirazuddin, Mastan @ Mubarak Ansari and Bhim Rai are said to have fired upon the deceased. The petitioner has been made accused in the present case due to mistake of fact.

On behalf of the learned counsels for the State and the



informant, it has been submitted that the petitioner is named in the F.I.R. There is specific allegation against the petitioner for firing upon the deceased. The postmortem report also supports the allegation made in the F.I.R. Prayer for bail of similarly situated co-accused person Dularchand Sah and Birendra Sah @ Bijendra Sah has been rejected by another Co-ordinate Bench of this Court vide Cr. Misc. No. 37694 of 2018 order dated 10.09.2018 and Cr. Misc. No. 578 of 2019 order dated 13.03.2019.

Considering the aforesaid facts and circumstances, I am not inclined to grant bail to the petitioner. The same is rejected in connection with Kochas (Parsathua) P.S. Case No. 178 of 2017 pending in the court of learned C.J.M. Sasaram, Rohtas.

The court below is directed to take all necessary steps to conclude the trial preferably within a period of one year from the date of receipt/production of copy of this order.

The District Magistrate, Rohtas at Sasaram and the Superintendent of Police, Rohtas at Sasaram, are also directed to ensure that the prosecution witnesses are produced in the court below on the date fixed by the court below so that the trial could be concluded within the stipulated period.



Let a copy of this order be communicated to the District Magistrate, Rohtas at Sasaram and the Superintendent of Police, Rohtas at Sasaram.

(Sudhir Singh, J)

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