

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.67718 of 2018

Arising Out of PS. Case No.-130 Year-2018 Thana- KHAJEKALA District- Patna

Arif Son of Md. Ayub @ Tunnu Ayub Jama, Resident of Bartal, Noonka Chauraha, Kashmiri Kothi, Ranipur Milki Chak, Mogalpura Patna City, Police Station Khajekalan, District-Patna.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Smt. Kanak Verma, Adv.

For the Opposite Party/s : Mr. J. N. Thakur, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

5 28-01-2019 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner is languishing in custody since 16.05.2018 in a case registered for the offences punishable under Sections 302/34 of the Indian Penal Code and 27 of the Arms Act.

The prosecution case got initiated on the Fardbeyan of Chandani Pravin, recorded by S.I. Vinay Kumar Singh, Khajekala Police Station on 14.05.2018 at 08.45 P.M., is to the effect that on the same day at 7.00 P.M., the younger brother of the informant Arif was watching T.V. in the house when at 7.30 P.M., the brother's friend Jawed came to call him. The informant forbade his brother to go and asked co-accused,



Jawed to leave. But, thereafter, co-accused, Jawed again came and at his insistence, the brother of the informant went at the Majar situated in front of the house of the informant, where, co-accused, Salim and the petitioner Arif were standing from before. As soon as the the informant's brother reached there, the petitioner Arif fired on the head of the informant's brother and thereafter escaped from the scene. Subsequently, the victim was taken to the N.M.C.H, Patna, but he was declared dead.

It is submitted by learned counsel for the petitioner that in fact, the informant was in love with co-accused Jawed and it was the co-accused Jawed, who called the brother of the informant since the brother of the informant objected their relationship, hence, the informant in order to save the co-accused, Jawed has named the petitioner. It is further submitted that the place of occurrence from the house of the informant is about eighty feet and there was a huge water tank in between the place of occurrence and the house of the informant, hence it is impossible for the informant to witness the alleged occurrence. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.



Learned APP for the State after going through the case diary submits that there is specific accusation against the petitioner in the FIR, of firing on the informant's brother. Moreover, in paragraph no.20 of the case diary, the confessional statement of co-accused, Md. Jawed has been recorded, wherein he has confessed his guilt and has further stated that the petitioner Arif resorted fire upon the informant's brother. It is further submitted that in paragraph nos.4 and 47 of the case diary, the statements of some of the witnesses, namely, Md. Chand and Md. Sajid @ Kallu have been recorded, wherein they have supported the accusation.

Considering the specific accusation against the petitioner, this Court is not inclined to grant bail to the petitioner for the present.

Accordingly, the prayer for bail of the petitioner in connection with Khajekalan P.S. Case No.130 of 2018, pending before the learned SDJM, Patna City is rejected.

However, it is expected from the learned trial Court to expedite the trial.

(Dinesh Kumar Singh, J)

Ashwini/-

U		T	
---	--	---	--

