

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.148 of 2020

Arising Out of PS. Case No.-312 Year-2019 Thana- HARNAUT District- Nalanda

NITISH KUMAR @ NITISH YADAV Son of Vishwanath Yadav Resident of
Village - Kharuwara, P.S.- Harnaut, (Chero O.P.), District - Nalanda.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Lakshmi Kant Sharma
For the Opposite Party/s : Mr.Shailendra Kumar Singh

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

4 28-05-2020 This case has been posted before me for hearing through video- conferencing, under the orders of Hon'ble the Chief Justice, in view of Nation passing through lockdown as an aftermath of the outbreak of COVID-19 pandemic.

Heard learned counsel for the petitioner and the State.

The petitioner seeks bail in a case for the offence punishable under Sections 147, 148, 149, 341, 302, 504 of the Indian Penal Code and Section 27 of the Arms Act.

The allegation as per FIR of informant is that on 03.08.2019 the petitioner along with other co-accused persons armed with weapons assembled on road in front of the house of one Rajesh Yadav and they were abusing hearing which the informant and his family members came out of the house and saw the accused persons having armed with weapons. It is



further alleged that in the meantime, the son of the informant came there and seeing him, co-accused Rajesh Yadav caught his son and on his order, co-accused Ashok Yadav fired his rifle which hit right shoulder to his son and his petitioner fired his rifle hitting right thigh of his son due to which his son fell on the ground and when informant along with family members ran towards him, the accused persons fled away. It is further alleged that son of the informant succumbed to his injury in the way near Khusrupur.

It has been submitted on behalf of the petitioner that there is inordinate delay in instituting the FIR though occurrence is said to have taken place on 03.08.2019 but FIR was instituted on 04.08.2019 and there is no explanation of the inordinate delay in instituting the FIR. He submits that although 11 persons were named in the FIR however it has been alleged that deceased was caught by one Rajesh Yadav and on his order Ashok Yadav shot below the shoulder. He submits that postmortem was conducted on the dead body of the deceased which also not corroborated the contention made in the FIR. He submits that similarly situated co-accused has been granted the bail by coordinate Bench of this Court in Cr. Misc. No. 76776 of 2019 on 11.12.2019. He further submits that petitioner is



languishing in judicial custody since 27.08.2019.

Learned APP for the State vehemently opposes the prayer for bail and submits that there is specific allegation against the petitioner to fire upon the deceased. From the postmortem report one fired and one live cartridge have also been recovered. The inquest report and the postmortem report corroborated the death of the deceased due to bullet injury and the petitioner appears to be one of the assailant of the deceased.

Considering the facts and circumstances of the case, I am not inclined to enlarge the petitioner on bail. Accordingly, his payer for bail is rejected at this stage in connection with Harnaut (Chero OP) P.S. Case No. 312 of 2019 pending before the court of the learned Chief Judicial Magistrate, Nalanda at Bihar Sharif.

Accordingly, the application is dismissed.

(Anjani Kumar Sharan, J)

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