

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3080 of 2020

Arising Out of PS. Case No.-119 Year-2019 Thana- CHANAN District- Lakhisarai

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BINOD YADAV @ BINO @ BINDU YADAV Son of Late Kaleshwar Yadav
Resident of Village-Sarebag, P.S.-Sono, District-Jamui.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Krishana Prasad Singh, Sr. Adv.

For the Opposite Party/s : Mr. Ajay Kumar Jha, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

5 03-09-2020 The court proceeding has been conducted through
virtual mode.

Since the court proceeding is not functional in
physical mode, due to present Pandemic, Covid -19, the present
case has been listed with defects.

Learned Sr. Counsel for the petitioner undertakes to
remove the defect(s) within a period of four week of resumption
of court proceeding in physical mode.

If the defect(s) is not removed within the undertaken
period, the office will place the matter again.



Heard learned Sr. Counsel for the petitioner and the State.

The petitioner is languishing in custody since 23.08.2019, in a case registered for the offences punishable under Sections 302/34 of the IPC, 27 of the Arms Act and Sections 17, 18, 20 and 23 of the Prevention of Unlawful Assembly Act.

The prosecution case, as per the fardbeyan of Rambharosh Kumar, recorded by Ranjan Kumar, S.H.O., Chanan Police Station on 19.08.2019 at about 11.30 A.M. is to the effect that on 11.08.2019, at about 9 A.M., the informant and his elder brother, Madan Kumar and co-villager, Shishu Yadav and relative Dev Nandan Yadav were having tea at the tea shop, in the meantime, Panchayat Mukhiya, Ganesh Rajak along with his driver, Chhotu Saw came on a Scorpio and they all started taking tea. In the meantime, co-accused Rana Kumar Singh came and immediately thereafter six accused persons came on two motorcycles, when co-accused, Rana Kumar Singh, after taking arms from one of the motorcyclists, resorted to firing on the brother of the informant, causing injury on his chest and waist, as a result he died on the spot. It is further alleged that other accused persons resorted to fire causing injury on the head



and abdomen of the driver of the Panchayat Mukhiya, Chootu Saw, as a result, he also died on the spot. The petitioner was not named in the FIR. His name subsequently sprang up during investigation.

Learned Sr. Counsel for the petitioner submits that the petitioner is not named in the FIR, although the informant and co-villager were eye-witnesses to the occurrence. Moreso, the fardbeyan came to be recorded after 2.30 hours of the occurrence and other co-villagers, whose statements have been recorded during investigation, also claim to be eye-witness have named the petitioner, yet the petitioner not being named in the fardbeyan, suggests of false implication. Moreover, the petitioner has been named by the eye-witnesses only after the petitioner is named in the confessional statement of the named accused Rana Kumar Singh and prior to that the petitioner has not been named in the FIR, though he was known to the informant. It is further submitted that the other co-accused, Vishwanath Yadav, whose name also transpired during investigation, has been granted bail vide order dated 04.06.2020 passed in Cr. Misc. No. 18285 of 2020, while co-accused, Lalan Singh, whose name also sprang up during investigation and who is having two criminal antecedent, has also been granted



bail by a Co-ordinate bench of this Court, vide order dated 02.06.2020, passed in Cr.Misc. No. 7412 of 2020. A statement has been made in paragraph no.3 of the petition that the petitioner is accused in two other cases, but he is on bail in that case. Moreover, the investigation has already been concluded and in the present situation, created due to pandemic, Covid-19, since the court proceeding is not functional in physical mode, there is no likelihood of trial being concluded in near future.

Learned APP for the State submits that the name of the petitioner sprang up during investigation as he was one of the accomplice of the main accused, Rana Kumar Singh.

Considering the fact that the accusation is specific against co-accused, Rana Kumar Singh, the petitioner is not named in the FIR, his name subsequently sprang up during investigation, though the learned Sessions Judge has committed an error to the effect that the petitioner is named in the FIR, similarly situated co-accused persons have been granted bail by different Co-ordinate benches of this Court and the trial is not likely to be concluded due to the pandemic, Covid-19, let the petitioner above named be released on bail for the present provisionally for a period of three months on furnishing one surety to the satisfaction of the learned A.C.J.M.-1, Lakhisarai,



in connection with Chanan P.S. Case No. 119 of 2019.

However, in view of the present pandemic COVID- 19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card to the effect that he is ready to become the bailor of the petitioner which may be transmitted by such surety on photo copy of his Aadhar Card to the effect that he is ready to become the bailor of the petitioner which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional bail of the petitioner will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10000/- (ten thousand) with two sureties including one surety given at the time of provisional bail of the like amount each to the satisfaction of learned A.C.J.M.-1, Lakhisarai, in connection with Chanan P.S. Case No. 119 of 2019.

The learned Court below will be at liberty to extend the period of provisional bail further if the court proceeding in physical mode will not resume in next three months.

The learned court below will be at liberty to cancel the bail bonds of the petitioner if he defaults for three



consecutive occasions during trial.

Accordingly, the present application is disposed of.

(Dinesh Kumar Singh, J)

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