

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8716 of 2020

Arising Out of PS. Case No.-239 Year-2019 Thana- ARA NAGAR District- Bhojpur

CHHOTU SINGH @ CHHOTU KUMAR @ CHHOTU MISHRA Son of Jay
Prakash Mishra Resident of Village - Anand Nagar, P.S.- Ara Town, District -
Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Prabhat Kumar Singh
For the Opposite Party/s : Mr. J.N. Thakur, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 17-08-2020 The court proceeding has been conducted through
virtual mode.

Heard learned counsel for the petitioner and the State.

The petitioner is languishing in custody since
25.07.2019, in a case registered for the offences punishable
under Sections 302 and 307/34 of the IPC and Section 27 of the
Arms Act.

The prosecution case, as per the fardbeyan of
Bhagwan Singh, recorded by S.I. Ranjit Kumar on 22.05.2019
at about 09.05 at Emergency Ward, Sadar Hospital, Arrah is to
the effect that on the same day, the son of the informant, Balram
Singh was sitting and gossiping with his friends. At about 7 to
7.15 P.M., three accused persons, travelling on a Pulsar
motorcycle, dashed a person riding a bicycle. Thereafter the



local people asked the motorcyclists to make payment for treatment of the injured, in the meantime, one of the local person, slapped one of the motorcyclist and thereafter all the motorcyclist fled away, but they returned back and resorted to 3-4 rounds fire causing injury on the chest of the son of the informant and one Sujit Kumar @ Monu. The son of the informant subsequently succumbed to the injuries, leading to registration of FIR against three unknown motorcyclists. The name of the petitioner subsequently sprang up during investigation on the statement of one Rakesh Kumar Singh, the brother of the informant, who stated that after the alleged occurrence, he reached on the spot when nearby people conveyed him that this five accused persons including the petitioner resorted to fire. The injured Sujit Kumar also claimed to have identified the five accused persons including the petitioner, who resorted to fire.

Learned counsel for the petitioner submits that the petitioner is the local resident of the area. The statement of the witnesses were recorded on 23.05.2019 whereas the alleged occurrence took place on 22.05.2019. There is no occasion for the brother of the informant, whose statement has been recorded in paragraph no. 10 of the case diary, not to disclose the name of



the petitioner when the FIR was lodged. The accusation of firing is omnibus and general against the petitioner. A statement has been made in paragraph no. 3 of the petition that though the petitioner is accused in two other cases, but in those cases, he is on bail. Moreover, in the present situation, created due to pandemic, Covid-19, since the court proceeding in physical mode is not functional, 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 on the statement of the brother of the informant.

Considering the genesis of the occurrence and inconsistency to the extent that there is specific case in the FIR that only three persons were travelling on a motorcycle and those three accused persons returned back and resorted to fire, whereas the statement of two witnesses disclosed that five accused persons including the petitioner resorted to fire, which is not specific whether the firing resorted by the petitioner actually hit either the injured or the victim, coupled with fact that 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 Chief Judicial Magistrate, Bhojpur at Ara, in connection with Ara Town P.S. Case No. 239 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 Chief Judicial Magistrate, Bhojpur at Ara, in connection with Ara Town P.S. Case No. 239 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)

Amrendra/-

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