

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10801 of 2020

Arising Out of PS. Case No.-199 Year-2018 Thana- PIRO District- Bhojpur

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Harshit Kumar @ Harshit Singh Son of Manoj Kumar Singh, Resident of
Village - Sikraul, P.S.- Sikrahatta, Distt - Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Rama Kant Sharma, Senior Advocate
		Mr. Prabhat Kumar Singh, Advocate
For the Opposite Party/s :		Mr. Ashok Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

5 13-07-2020 Heard learned counsel for the petitioner and learned
counsel for the State Mr. Ashok Kumar Singh through Video
Conferencing.

In this case, the petitioner is seeking regular bail in
connection with Piro P.S. Case No. 199 of 2018 registered for
offence punishable under sections 147, 148, 149, 379, 302/34 of
the Indian Penal Code.

The petitioner has earlier moved before this Court for
regular bail in Cr. Misc. No. 15859 of 2019 and this Court, vide
order dated 30.05.2019, rejected the same.

Allegation has been made in the FIR by the informant
that the victim was going on four wheeler. The informant along
with his cousin Deepak Pandey was following him. The accused



persons followed the victim and the present petitioner along with co-accused named in FIR have started spreading the bullets on the body of the victim. From the FIR it appears that the bullet spread by the petitioner has caused injury on the different parts of the body of the victim, including occipital region as a result of which he was declared dead. In the post mortem, in different places, the bullet injuries have been found on the body of the victim.

Learned counsel for the petitioner submits that the informant was not in fact a witness to the incident, inasmuch as Deepak Pandey, who was going along with the informant, has not been examined by the police. He could have divulged the correct picture with respect to the incident, merely because the petitioner has some enmity is the reason will not be involved to such heinous crime rather he has falsely been implicated in the present case. Further it has been submitted that there is a delay of four days in sending the FIR to the Magistrate itself depicts that he was wrongly been framed in the present case. It appears that after conducting the post mortem, the FIR has been sent to the Magistrate whereas it is required under the law, under section 157 Cr.P.C., the FIR should be sent forthwith that has been delayed. Further it has been stated that Yogendra Singh,



who is one of the co-accused, actively participated and also fired, has been granted bail by this Court in Cr. Misc. No. 30810 of 2019 vide order dated 25.10.2019 and this order elaborately dealt with matter. Mr. Rama Kant Sharma, Senior Advocate, who himself argued the Yogendar Singh case has taken plea that the present petitioner is the main accused who has killed the victim. From the FIR it also appears that another co-accused Prakash Choudhary has also been granted bail by this Court in Cr. Misc. No. 82062 of 2019 on 27.05.2020. From order of Yogendra Singh case, the coordinate Bench recorded the submission of counsel where the plea was that Harshit Kumar (petitioner) is the main accused who has fired first upon the victim, on that account, he died.

Learned counsel for the petitioner submits that already two years have elapsed but till date no commitment order has been passed and the record is lying before the Additional Chief Judicial Magistrate. It has further been submitted that the State has also submitted in the case of Yogendra Singh that there is a delay in sending the FIR to the Magistrate, but the fact is that from the order itself shows that it is Harshit Kumar (petitioner) who has fired upon the victim. The delay part will be taken into consideration during trial of the case.



In such view of the matter, for the present, this Court
is not inclined to grant bail to the petitioner and accordingly his
prayer for bail is rejected.

(Shivaji Pandey, J)

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