

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10363 of 2020

Arising Out of PS. Case No.-35 Year-2016 Thana- KONCH District- Gaya

MAHESH SHARMA, Son of Sri Ram Ugrah Sharma @ Anugrah Sharma,
Resident of Village - Tutturkhi, P.S. - Konch, District - Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Ajay Kumar Thakur, Advocate Mr. Shashank Shekhar, Advocate
For the Opposite Party/s :	Mr. Pranav Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

4 05-06-2020 The matter has been taken up through Video Conferencing.

Heard learned counsel for the petitioner and learned APP for the State.

Petitioner seeks bail in a case registered for the offences punishable under Section 302/34 of the Indian Penal Code as well as Section 27 of the Arms Act.

According to FIR, the petitioner is one of the assailants of the deceased by causing firearm injury at the abdomen. The Doctor has found firearm injury at the abdomen while performing postmortem examination.

Learned counsel for the petitioner has drawn attention of the Court towards the case diary and has doubted the correctness of the prosecution version on the ground that first



police reached at the place of occurrence and prepared the inquest report at 13:30 hours on 06.03.2016 and thereafter written report was filed at 15:00 hours on 06.03.2016 itself.

Submission is that if there would have been an eyewitness of the occurrence, the matter could have been disclosed to the police at the first instance and it would have come in the inquest also.

Further in paragraph 2 of the case diary, the police has recorded that the informant refused to give fardbeyan and said that he would submit a written report of the occurrence. This goes to show that the informant had not made up his mind as to who should be implicated in the case. Petitioner is in custody since 25.06.2019. Investigation of the case is already complete against the petitioner.

Considering the fact that statement of an eyewitness cannot be disbelieved at this stage for the aforesaid infirmity, hence, I am not inclined to enlarge the petitioner on bail in connection with Konch Police Station Case No. 35 of 2016 bearing G.R. No. 1255 of 2016 pending in the court of learned 3rd Additional Chief Judicial Magistrate, Gaya.

Accordingly, prayer for bail is refused.

The petitioner may renew prayer for bail if the trial is



not concluded within a period of nine months from the date of
communication of this order to the learned Trial Judge.

(Birendra Kumar, J)

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