

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10844 of 2020

Arising Out of PS. Case No.-103 Year-2018 Thana- NIMCHAKBATHANI District- Gaya

CHOTEY LAL MISTRY Son of Sarun Mistry Resident of Village - Simraur,
P.S.- Neemchak Bathani, Distt - Gaya.

... .. 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.Ramakant Sharma

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

5 17-09-2020

The present petition has been taken up for consideration through the mode of Video Conferencing in view of the prevailing situation on account of COVID-19 Pandemic.

Heard the learned counsel for the petitioner and Sri Ramakant Sharma, the learned APP for the State.

The petitioners seek regular bail in connection with Neemchak Bathani PS case no. 103 of 2018 instituted for the offences punishable under Section 147, 148, 149, 302, 120B of Indian Penal Code and 27 of Arms Act.

The case of the prosecution in brief is that the informant was roaming around the pond situated near his new house along with his relatives and his son was feeding the fishes in the pond, whereupon two Bolero vehicles came and stopped there and the accused persons including the petitioner herein



had alighted from the vehicle, whereafter they had fired on the son of the informant after surrounding him, resulting in his death on the spot.

The learned counsel for the petitioner has submitted that the petitioner is innocent, has been falsely implicated in the present case and is languishing in custody since 21.10.2019. It is further submitted that as far as post mortem report is concerned, only two firearm injuries have been found on the person of the deceased son of the informant, however five accused persons are alleged to have fired on the deceased son of the informant, thus it is submitted that a general and omnibus allegation has been levelled as far as the petitioner is concerned. It is also submitted that the name of the petitioner has been introduced by the prosecution in the FIR, subsequently.

Per contra, the learned A.P.P. for the State and the learned counsel for the informant have vehemently opposed the prayer for bail. The learned counsel for the informant has submitted that a co-ordinate Bench of this Court vide order dated 10.01.2020, passed in Cr. Misc. no. 73430 of 2019 has dismissed the prayer for bail of a similarly situated co-accused person, hence the petitioner is also not entitled to the privilege of bail.



I have heard the learned counsel for the parties, perused the materials on record and gone through the case diary in question, from which it is apparent that there is specific allegation against all the accused persons including the petitioner herein of having fired gun shots from their pistol which had hit the son of the informant resulting in his instantaneous death, hence the complicity of the petitioner is writ large from the record. Moreover, a co-ordinate Bench of this Court has already rejected the prayer for bail of a similarly situated co-accused person. This Court further finds that the petitioner is an accused in four other criminal cases, hence he appears to be a veteran criminal. Considering the facts and circumstances of the case, this Court does find any merit in the present petition, hence the same stands dismissed.

(Mohit Kumar Shah, J)

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