

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18263 of 2020

Arising Out of PS. Case No.-7 Year-2020 Thana- BAHADURGANJ District- Kishanganj

MD. IZHAR S/o Ishaque R/o village- Rampur, P.S.- Bahadurganj, District- Kishanganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Surendra Prasad Singh
For the Opposite Party/s : Mr.Navin Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 25-08-2020 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, requiring social distancing.

Heard the learned counsel for the petitioner and the learned A.P.P. for the State, Shri Navin Kumar Pandey.

The petitioner seeks regular bail in connection with Bahadurganj P.S. Case No. 07 of 2020 for the offences punishable under Sections 394 and 302 of the Indian Penal Code and Section 27 of the Arms Act.

The case of the prosecution in brief is that on 07.01.2020 the informant along with his driver at about 5:30 P.M. went to Silliguri for purchasing hens and on the way at Hadwa Chowk at about 6:00 P.M., the driver had collected money from the



shop keepers, whereafter they had kept a sum of Rs. 8,500/- and Rs. 1,43,000/- in the music box and had covered the same with a blanket. It is further alleged that as soon as they had arrived near Mahadevdighi, two persons on a motorcycle had waived to stop them whereupon the informant had rolled down the window and then both the accused persons had fired gun shots, however, the same did not hit the informant or his driver. It is the further case of the informant that thereafter, they had gone ahead and after some distance had parked the vehicle at a hotel but the accused persons had arrived there also and had fired gun shots resulting in the driver being hit by gun shots whereafter, the accused persons had taken away the cash kept in the vehicle and had fled away. Subsequently, it appears that the driver had died on account of gunshot injuries.

The learned counsel for the petitioner has submitted that the petitioner is innocent, has been falsely implicated in the present case and the fact is that the FIR has been lodged against unknown accused persons. It is further submitted that there is no evidence on record to suggest the complicity of the petitioner herein in the alleged crime and moreover no test identification parade has taken place, which in any case would have revealed the truth. It has been further submitted that though the petitioner



was having a clean antecedent, however, he has been remanded in one other case after being implicated in the present case and is languishing in custody since 10.01.2020. It is further submitted that the petitioner is ready to abide by such conditions as may be deemed fit and proper to be imposed by this Court for the purposes of grant of bail.

Per contra, the learned A.P.P. for the State has vehemently opposed the prayer for bail.

I have heard the learned counsel for the parties and perused the materials on record as also the case diary in question. It is apparent from the case diary that miniscule evidence is present qua the petitioner herein regarding his complicity in the alleged crime. In fact the informant has also not taken the name of the petitioner to be the perpetrator of crime and moreover no test identification parade has been held, despite the petitioner being in custody since a long time, which would have in any view of the matter established the actual facts, as to whether the petitioner is having any role to play in the alleged crime or not. Thus, in such view of the matter, this Court has got no option but to give benefit of doubt to the petitioner herein as far as the present case for grant of regular bail is concerned.



Considering the facts and circumstances of the case, I deem it fit and proper to direct for release of the petitioner on regular bail, however, subject to certain conditions.

Accordingly, the petitioner, above named, is directed to be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned CJM, Kishanganj in connection with Bahadurganj P.S. Case No. 07 of 2020.

It is further directed that the petitioner would mark his attendance before the Officer In-Charge of the concerned Police Station at 10:00 A.M. on every Monday of the week and in the event of his failure to do so on two consecutive occasion, the present privilege of bail shall stand revoked automatically and the petitioner shall be taken into custody forthwith.

(Mohit Kumar Shah, J)

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