

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20038 of 2020

Arising Out of PS. Case No.-201 Year-2018 Thana- NAWANAGAR District- Buxar

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BRAHMACHARI DUBEY @ MINTU DUBEY (Male), aged about 49 years,
Son of Awadh Bihari Dubey, Resident of Village - Kadsar, P.S.- Nawanagar
(Sonbarsa), District- Buxar.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner	:	Mr. Ajay Kumar Thakur and Mr. Pravin Kumar, Advocates.
For the State	:	Mr. A.G.
For the Informant	:	Mr. Parijat Saurav, Advocate.

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

4 23-09-2020 Due to COVID-19 Pandemic, the matter is being
taken up by way of virtual Court proceeding.

The matter has been listed under the heading 'For
Orders' under the orders of Hon'ble the Chief Justice.

Learned counsel for the petitioner is directed to
remove the defects, as pointed out by the office, after restoration
of normalcy.

Heard learned counsel for the petitioner, learned
counsel for the informant and learned counsel for the State.

The petitioner seeks bail in a case registered for the
offence under Sections 302, 120(B)/34 of the I.P.C. and 27 of
the Arms Act.



The prosecution story, in brief, is that on 23.10.2018, the informant alongwith his father and uncle, Narayan Singh, were returning on Motorcycle from the market. When they proceeded ahead of *Jogdhara* near the *Kalwat*, as there was a ditch, the speed of the Motorcycle of his father, was slowed down. At that time, Brahmachari Dubey @ Mintu Dubey, (petitioner), co-accused Govinda Dubey, Chandrabhan Dubey @ Gopalji Dubey, Awadh Bihari Dubey alongwith 3-4 unknown persons were found present who surrounded them. Awadh Bihari Dubey instigated that they have killed his father and they will kill him also. Thereafter, Brahmachari Dubey @ Mintu Dubey (petitioner) fired on his father from the front. Co-accused Chandrabhan Dubney also fired at his father and thereafter co-accused Govinda Dubey fired at his father, as a result of which, his father fell down and those persons fled away resorting to firing in the Air. The occurrence took place at around 5.00 P.M. under a conspiracy.

It has been submitted on behalf of the petitioner that the petitioner is in custody since 21.01.2020. Charge sheet has been submitted in the present case. There is no allegation of tampering with the witnesses alleged against the petitioner. The petitioner has falsely been implicated in the present case. The



fardbeyan has been recorded after a thought. Prior to recording of the fardbeyan, the inquest report was prepared. The informant being a witness to the said inquest report, did not disclose the name of the petitioner as one of the assailants. Prior to institution of the present case, a case was also instituted by the petitioner's side where the son of the petitioner was injured in acid attack. In course of investigation, the allegation of assault against the petitioner has been found to be false. There is admitted enmity between the parties and for the said reason, the petitioner has falsely been implicated in the present case.

On behalf of the learned counsels for the informant and the State, it is submitted that the petitioner is named in the F.I.R. Three persons including the petitioner are alleged to have fired upon the deceased. The postmortem report shows three wound of entry and three wound of exit caused by firearms. The petitioner has got four criminal antecedents.

Considering the nature of allegation as alleged in the F.I.R., I am not inclined to grant bail to the petitioner. The same is rejected in connection with Nawanagar (Sonbarsa) P.S. Case No. 201 of 2018, pending in the court of learned Chief Judicial Magistrate, Buxar.

The court below is directed to take all necessary steps



to conclude the trial preferably within a period of nine months
from the date of receipt/production of copy of this order.

(Sudhir Singh, J)

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