

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22681 of 2020

Arising Out of PS. Case No.-1197 Year-2019 Thana- AHIYAPUR District- Muzaffarpur

Mukesh Kumar S/o Uma Shankar Rai @ Uma Shankar Yadav Resident of
Village- Bara Jagarnath, P.S.- Ahiyapur, Distt- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sunil Kumar No.III

For the Opposite Party/s : Mr.APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 02-09-2020 The Court proceeding has been conducted through
virtual mode.

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

Since the court proceeding in physical mode is
non-functional, due to present pandemic, COVID-19, the matter
is listed with defects.

Learned counsel for the petitioner undertakes to
remove the defects within three weeks of resumption of court
proceeding in physical mode. In the eventuality of non-removal
of defects within undertaken period, the office will place the
matter before the bench.

The petitioner is languishing in custody since
07.10.2019 in a case registered for the offences punishable



under Sections 302, 120B/34 of the Indian Penal Code and Section 27 of the Arms Act, hence, the prayer for bail has been made through the present application.

The prosecution case, as per the fardbeyan of Akshay Raj recorded by S.I., Rajendra Sah, SHO. Gaighat Police Station at S.K.M.C.H, Muzaffarpur in Emergency ward on 05.10.2019 at 10.58 A.M., is to the effect that the father of the informant, Shailendra Kumar was a compounder in the clinic of a doctor. His father visited the clinic. At 10.30 A.M. the informant received information that his father has been shot at in the clinic. Thereafter, the informant along with his mother and the local people reached at the clinic and shifted his father to S.K.M.C.H. for treatment. The father of the informant disclosed that he has been shot at at the behest of Ghanshyam Patel and his wife, Baby Patel. Subsequently, the father of the informant succumbed to the injury. The petitioner is not named in the FIR but his name sprang up in the extra judicial confession of co-accused Ghanshyam Patel.

It is submitted by learned counsel for the petitioner that the father of the informant has not named the petitioner. The informant has not raised suspicion nor he is the eye witness to the occurrence and co-accused Ghanshyam Patel, who has been



named by the father of the informant, has been granted bail by Co-ordinate bench of this Court vide Cr. Misc. No. 13588 of 2020, as contained in Annexure-2 series. The other co-accused Lal Babu, whose name also transpired in the statement of co-accused Ghanshyam Patel, has also been granted bail by another Co-ordinate bench of this Court vide Cr. Misc. No. 11256 of 2020 and investigation has already been concluded. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP for the State submits that the name of the petitioner sprang up in extra judicial confession of co-accused Ghanshyama Patel, who has been named by the victim.

Considering the fact that the person, who was named by the victim, has been granted bail, investigation has already been concluded and statement made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent, let the petitioner above named be released on bail for the present provisionally for a period of three months on furnishing one surety to the satisfaction of the learned Chief Judicial Magistrate, Muzaffarpur in connection with Ahiyapur P.S. Case No. 1197 of 2019.

However, in view of the present pandemic



COVID-19, it will be open for the learned Court below to accept the bail bond upon furnishing an undertaking by the surety, on photo copy of his Aadhar Card, to the effect that he is ready to become the bailor of the petitioner which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional bail of the petitioner will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10000/- (ten thousand) with two sureties, including one surety given at the time of provisional bail, of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Muzaffarpur in connection with Ahiyapur P.S. Case No. 1197 of 2019.

The learned Court below is at liberty to further extend the period of provisional bail if the court proceeding in physical mode will not resume in next three months.

Accordingly, the application stands disposed of.

(Dinesh Kumar Singh, J)

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