

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.21086 of 2020**

Arising Out of PS. Case No.-1038 Year-2019 Thana- BIHTA District- Patna

=====

PUPUL KUMAR SHARMA S/o Sri Dinesh Sharma Resident of Bihta Tola
Jinapura, P.O and P.S-Bihta, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Chunu Kumar S/o Randhir Prasad Village-Tishkhora, P.O. and P.S.-
Naubatpur, District-Patna.

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Sunil Kumar Mishra, Adv.
For the Opposite Party/s : Mr.Akhileshwar Dayal, APP

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 26-08-2020 At the outset, learned counsel for the petitioner

submits that this being a police case, the informant is not a

necessary party to the case and hence he prays to delete the

name of the informant as opposite party no.2.

Learned APP for the State admits that the informant

is not a necessary party in this case.

Prayer is, thus, allowed.

Heard learned counsel for the petitioner and Mr.

Akhileshwar Dayal, learned APP for the State.

The petitioner in the present case is seeking regular

bail in connection with Bihta P.S. Case No.1038/2019 registered

for the offences punishable under Sections 302, 120(B) and 34



of the Indian Penal Code.

Learned counsel for the petitioner submits that as per the prosecution story two motorcycle borne criminals came near the house of the deceased who was reading newspaper at the relevant time in the morning, one of them fired upon the deceased which ultimately proved fatal and as a result of the injury the brother of the informant (deceased) died.

Learned counsel submits that so far as this petitioner is concerned, he has been brought in the purview of this case alleging that the motorcycle registered in the name of and owned by his wife has been used in the present case. It is however submitted by learned counsel that the registration number of the vehicle in question has been brought in this case by way of an afterthought. It is submitted that on the alleged date of occurrence police examined a number of witnesses but neither the informant nor those witnesses gave the description of the vehicle and registration number. Subsequently, on the next day the informant came out with registration number of the vehicle which he claim to have seen. It is thereafter that the petitioner has been made accused in the present case.

Learned counsel has further submitted that it would further appear from the case diary that in a very strange manner



after seizure of the motorcycle the investigating officer went with the photograph of the motorcycle and photograph of the two alleged assailants who were said to be involved in this case and those photographs were shown to the brother of the informant who identified the motorcycle from the photograph but refused to go for identification of the accused in T.I. Parade. It is, thus, submitted that the petitioner who has otherwise no criminal antecedent and had never been involved in any manner has been made accused in this case by alleging that his wife's motorcycle was used by the assailant. One of the assailants is said to be a cousin brother-in-law of the petitioner.

Mr. Akhileshwar Dayal, learned APP for the State has gone through the case diary and it is submitted that the motorcycle of this petitioner's wife has been used in the present occurrence. However, after going through the entire case diary learned APP accepts that there is no independent evidence to the effect that the petitioner was either in touch with the assailants or any witness has made allegations against his involvement. The petitioner is said to be in jail since 15.11.2019 and investigation against him is complete.

Having regard to the facts and circumstances of the case wherein this Court has noticed that the petitioner has been



made accused in this case on the allegation that the motorcycle registered in the name of and owned by the wife of the petitioner has been used in the present case, the description of the motorcycle with the registration number was disclosed on the subsequent day even though on the alleged date of occurrence the informant and other witnesses were allegedly present on the spot and had made statements before police, save and except that allegation there is no other material which has been pointed out to this Court against the petitioner, the petitioner has otherwise no criminal antecedent and he is in custody since 15.11.2019, the investigation against him is complete and his further incarceration in jail is not likely to come in aid of investigation and help the prosecution, let the petitioner above named be released on bail on furnishing of bail bond of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of learned A.C.J.M.-1, Danapur in connection with Bihta P.S. Case No.1038 of 2019, subject to the conditions as laid down under Section 437(3) of the Cr.P.C. as under:

- (a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,
- (b) that such person shall not commit an offence



similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(c) that such person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that he will abide by and observe the guidelines and directives of the Government of India and the State Government with regard to COVID-19 Pandemic during the lockdown period. The authorities concerned shall take appropriate steps to ensure such observance prior to and after release of the petitioner.

(Rajeev Ranjan Prasad, J)

arvind/-

U		T	
---	--	---	--

Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

