

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21969 of 2020

Arising Out of PS. Case No.-01 Year-2020 Thana-Nayagaon District-Begusarai

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Diwakar Paswan, son of Parveen Paswan, resident of village- Kasimpur,
P.S.- Nayagaon, District- Begusarai.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner : Mr. Onkar Nath, Advocate
Mr. Ajit Kumar, Advocate
For the Opposite Party : Dr. Mrityunjaya Kumar Gautam , APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 07-10-2020 Filing through email of the present application has been accepted in view of the out-break of COVID-19 Pandemic and has been posted before me for hearing through video conferencing.

The application is apparently not in accordance with the provisions prescribed under the Patna High Court Rules, which do not contemplate filing of application through email. In spite of that, considering the extra-ordinary situation, filing of the present application has been allowed through email.

Considering the situation prevailing, the Court has considered, for the present, to ignore the deficiency in filing of the application.

Heard learned counsel for the petitioner and learned



Additional Public Prosecutor for the State.

The petitioner, who is in custody since 29.01.2020 in connection with Nayagaon P.S. Case No. 1 of 2020 registered inter alia under Sections 302 read with 34 of the Indian Penal Code and 27 of the Arms Act, has prayed for grant of bail.

Learned counsel for the petitioner submitted that from the materials collected during investigation, it would be evident that it was Balmiki Yadav, who is the assailant of the deceased and the name of the petitioner has been given merely out of suspicion. He contended that the story propounded by the prosecution as against the petitioner does not seem to be probable. According to him, there is no eye witness to the occurrence and in a deep rooted conspiracy, the petitioner has been falsely implicated in this case.

On the other hand, learned counsel appearing for the State vehemently opposed the prayer for grant of bail to the petitioner. He contended that it would be evident from the first information report as also the materials collected in course of investigation specially, the statement of witnesses recorded under Section 161 of the Code of Criminal Procedure in paragraph 9, 20, 22, 23 and 24 that on 09.01.2020 at about 06:00 pm when the brother of the informant namely, Naresh Yadav @ Mini Naresh Yadav was sitting at his door, the petitioner along with Balmiki



Yadav and Bijay Ram came to his house and told that Parveen Paswan had called him for a feast and, thereafter, they took him to the house of Parveen Paswan and killed him. He contended that it is true that the witnesses examined during investigation have stated that it was Balmiki Yadav who caused firearm injury to the deceased but the petitioner was an active participant in the commission of the offence and his role does not entitle him for grant of bail.

Having heard the parties and perused the materials on record, I am not inclined to grant bail to the petitioner. The prayer for bail is rejected.

Since the court proceedings are being conducted through virtual mode and normal court functioning has not been restored till date, it is considered appropriate to adopt the following procedure for communication of the present order:-

- (i) The order, which has been dictated during the course of proceeding of the virtual court, shall be communicated to me on my email by the Senior Secretary.
- (ii) The corrected copy of the order shall be transmitted by me from my email id to the Senior Secretary, which shall be treated to be an authentic copy of the order passed by this Court in the present proceeding.
- (iii) Hard copy of the order duly signed by me shall be



preserved in my residential office for documentation and future use, if any.

- (iv) Let a copy of the order be sent to Mr. Onkar Nath, learned counsel for the petitioner also on his email.
- (v) Let steps be taken by the Senior Secretary/registry for up-loading of the present order without compromising with the norms of social distancing.

(Ashwani Kumar Singh, J.)

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