

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24587 of 2020

Arising Out of PS. Case No.-489 Year-2019 Thana- BEGUSARAI MUFFASIL District-
Begusarai

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RAJESH KUMAR @ FUCHCHA @ PHUCHCHA @ PHUCHCHA SINGH
Son of Sanjay Singh Resident of Village - Mohanpur, P.S. - Muffassil, District
- Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Siddhartha Prasad

For the Opposite Party/s : Mrs. Sucheta Yadav, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

5 24-11-2020 The learned counsel for the petitioner Shri Siddhartha Prasad, learned A.P.P. for the State Mrs. Sucheta Yadav and the learned counsel for the informant Shri Hare Krishna Prasad were heard at length yesterday and today the present case has been listed 'For Orders'.

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.

The petitioner seeks regular bail in connection with Begusarai Muffasil P.S. Case No. 489 of 2019 for the offence punishable under Sections 147, 148, 149 and 302 of the Indian Penal Code and Section 27 of the Arms Act.



The case of the prosecution in brief is that on 19.09.2019 at about 9:00 P.M., the informant along with his nephew Navin Kumar, son Deepak, wife of Navin Kumar and grand daughter were returning by Bolero vehicle from a feast organized at Mohanpur village and when they reached near Birendra Singh Dwar at Mohanpur, the accused persons including the petitioner herein had stopped the vehicle of the informant, whereafter the nephew of the informant was pulled out from the vehicle by the said accused persons and then the accused Raushan Kumar and the petitioner herein had fired from their pistols on the nephew of the informant causing gun shot injuries on him, resulting in his subsequent death.

The learned counsel for the petitioner has submitted that the deceased is a veteran criminal and in fact he was killed in some other incident and taking advantage of the same, the informant has tried to implicate the petitioner in the present case, which is apparent from the fact that though the FIR has been registered at 3:30 A.M. on 20.09.2019, however, the date and time of examination of dead body as per the inquest report has been shown to be 11:30 P.M. on 19.09.2019, which is prior to the registration of the FIR in question, hence apparently the petitioner has been falsely roped in the present case. It is further



submitted that the petitioner is innocent, is languishing in custody since 13.12.2019 and though he is accused in three other case but he is on bail in the said three cases. It is also submitted that the petitioner has been falsely implicated in the present case on account of admitted land dispute in between the petitioner and the informant. The learned counsel for the petitioner has also referred to the postmortem report to submit that the same has been prepared prior to the institution of the FIR, for which no explanation has been given by the prosecution and moreover no specific injury is attributable to the petitioner especially in view of the fact that as per the postmortem report, six injuries has been found on the body of the deceased. Lastly, it is submitted that similarly situated co-accused person has already been granted bail by a coordinate Bench of this Court vide order dated 01.06.2020 passed in Criminal Misc. No. 16743 of 2020.

Per contra, the learned counsel for the informant has vehemently opposed the prayer for bail and has submitted that the co-accused person who has been granted bail is having a clean antecedent whereas the petitioner is accused in three other criminal cases.

Having regard to the submissions made by the learned



counsel for the parties, having perused the materials on record and having gone through the case dairy in question, this Court finds that charge sheet has already been submitted in the present case, there is no allegation of tampering of witnesses qua the petitioner herein, minuscule evidence is available in the case diary qua the petitioner herein so as to prima facie show his complicity in the alleged occurrence, the preparation of the postmortem report and the inquest report prior to the institution of the FIR creates a doubt about the prosecution version and moreover similarly situated co-accused person has already been granted bail by a coordinate Bench of this Court, hence 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 C.J.M., Begusarai in connection with Begusarai Muffasil P.S. Case No. 489 of 2019.

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 cancelled automatically and
the petitioner shall be taken into custody forthwith.

(Mohit Kumar Shah, J)

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