

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.22717 of 2020**

Arising Out of PS. Case No.-22 Year-2020 Thana- SONHAN District- Kaimur (Bhabua)

KARTAL BIND S/o Vigau Bind Resident of Village- Baitha, P.S.- Sonhan,
District- Kaimur (Bhabhua).

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

with

CRIMINAL MISCELLANEOUS No. 27325 of 2020

Arising Out of PS. Case No.-22 Year-2020 Thana- SONHAN District- Kaimur (Bhabua)

BHISHM BIND @ BHISHM PRASAD BIND S/O Ram Awatar Bind
Resident of Village - Saitha, P.S. - Sonhan (Bhabua), District - Kaimur
(Bhabua).

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

(In CRIMINAL MISCELLANEOUS No. 22717 of 2020)

For the Petitioner/s : Mr.Sumeet Kumar Singh, Advocate

For the State : Mr.Parmanand Kumar, APP

For the Informant : Mr. Anjani Kumar, Sr. Advocate

(In CRIMINAL MISCELLANEOUS No. 27325 of 2020)

For the Petitioner/s : Mr.Yogendra Kumar, Advocate

For the State : Mr.Raj Kishore Singh, APP

For the informant : Mr. Manish Kumar, Advocate

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

3 09-11-2020 Heard learned counsel for the petitioner(s) in both the applications.

Petitioner(s), in the present case, are seeking regular bail in connection with Sonhan (Bhabhua) P.S. Case No. 22 of 2020 registered for the offence under Section 302, 34 of the Indian Penal Code and Section 27 of the Arms Act.

Learned counsel for the petitioner(s) submit that from



perusal of the First Information Report it will appear that these two petitioners along with one Chotelal Ram were playing Ludo with the brother of the informant (deceased) in his shop. The informant had seen them playing Ludo in the shop, thereafter he left the shop and came running towards the shop after hearing the sound of firing at about 6:30 P.M. It is alleged that when the informant was running towards the shop he found these petitioners fleeing away, the informant wanted to stop them and asked as to why they were fleeing but the petitioner(s) fled away after giving a push to the informant. When the informant went inside the shop he found that his brother had suffered a fire-arm injury in the temporal region (Kanpati) and he had fell down, blood was oozing out of the injury. The brother of the informant did not say anything, he was brought to Bhabua Hospital where he was declared dead. The informant alleged that while playing Ludo the three persons had killed the brother of the informant by firing on him.

Learned counsel then submits that when the informant made his further statement before the police on 09.01.2020, he made a statement that his mother and sisters had seen not only the three persons who were playing Ludo but one Birendra Bind also who was having a 'Katta' in his hand and they were fleeing



away. The informant also made a statement that about 10 days ago Birendra Bind had threatened the brother of the informant that he should leave talking to his daughter otherwise he will have to lose his life and this fact was told to the informant by his mother.

Learned counsel for the petitioner(s) submit that in course of investigation the witnesses such as Puja Devi, Soni Kumari and Savita Devi who claimed to have seen the petitioner(s) and others fleeing away have stated before police that they had seen Binrendra Bind having Katta in his hand and he was coming out of the shop and behind him these petitioners and Chotelal Ram were also fleeing away.

Learned counsel further submits that in course of investigation no material has come against these petitioners to connect them with the co-accused Birendra Bind. The witnesses have consistently stated that they had seen Birendra Bind having Katta in his hand coming out of the shop and running away. As regards the allegation that these petitioners were also found fleeing away, learned counsel submits that it will be a natural and spontaneous act of any person who finds that a firing is taking place and only because these petitioners were seeing fleeing away but empty handed, no inference may be drawn



against them.

It is lastly submitted that these petitioners have got no criminal antecedent and they have been falsely implicated in this case on mere suspicion, they were arrested from their house and are in custody since 10.01.2020. If released on bail there would be no chance of tampering with the evidence or interfering with the course of trial.

In these two cases the informant has also entered appearance. Mr. Anjani Kumar, learned Senior Counsel while opposing the prayer for bail in Cr. Misc. No. 22717/2020 submits that these petitioners were also found fleeing way from the shop and when the informant wanted to ask them as to why they were fleeing away, instead of stopping and telling the reason they pushed the informant and fled away. According to learned Senior Counsel this may be a case of conspiracy between the petitioner(s) and co-accused Birendra Bind.

In course of argument, however, this Court called upon learned Senior Counsel to show from the materials collected in course of investigation that any material suggesting a conspiracy between the petitioner(s) on the one hand and co-accused Birendra Bind on the other hand has come. It has been noticed that the police has not found even any mobile



connection between these petitioners and co-accused Birendra Bind.

Mr. Manish Kumar, learned Advocate who has entered appearance on behalf of the informant in Cr. Misc. No. 27325/2020 has also opposed the prayer for regular bail of the said petitioner but at the end accepts that in course of investigation the material collected by I.O. has not shown the conspiracy angle.

Learned A.P.P. for the State has opposed the prayer for regular bail of the petitioner(s), however from the case diary it has been stated that the informant, his mother and sisters have come out with a stand that Birendra Bind had threatened the brother of the informant because of his talking to the daughter of said Birendra Bind and he was also threatened. Said Birendra Bind has got three criminal antecedents which fact has come in the case diary. He was found with a Katta in his hand coming out of the shop, however these petitioners were not found having any arms in their hand while fleeing away. The post-mortem report suggests only one injury causing death to the brother of the informant.

Having regard to the facts and circumstances of the case and the materials available on the record and having



noticed that these petitioners were said to be playing Ludo with the deceased, no prior enmity has been alleged, no motive has alleged against them and then immediately after lodging the F.I.R. the informant as well as the witnesses have made statement before police that they had seen Birendra Bind coming out of shop having a Katta in his hand, they have not stated that these petitioners were having any arms in their hand and then the witnesses have also stated that said Birendra Bind had threatened the brother of the informant that he would lose his life if he would not stop talking to his daughter, no material has come suggesting the conspiracy angle and these petitioners have got no criminal antecedent, they are in custody since 10.01.2020 and there is no submission that their release from custody at this stage is likely to interfere with the course of trial or tampering of evidences, let the petitioner(s) above named be released on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Kaimur (Bhabhua), in connection with Sonhan (Bhabhua) P.S. Case No. 22 of 2020, subject to the condition as laid down under Section 437 (3) 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 the court below shall verify the criminal antecedent of the petitioner(s) and in case at any stage it is found that the petitioner(s) have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner(s).

And further condition that they will abide by and observe the guidelines and directives of the Government of India and the State Government with regard to COVID-19 Pandemic.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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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'.

