

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23830 of 2020

Arising Out of PS. Case No.-161 Year-2019 Thana- PATNA CITY CHOWK District- Patna

Ranjit Choudhary Son of Munna Choudhary @ Mannu Choudhary @ Manna Prasad Choudhary Resident of Village - Kaimashikoh, Patnacity, District - Patna

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Awdhesh Kumar, Advocate
Mr. Pramod Kumar, Advocate
For the Opposite Party/s : Mrs. Sucheta Yadav, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 17-09-2020 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 has renewed the prayer for bail in a



case registered for the offences punishable under Sections 302/34 of the Indian Penal Code, Section 27 of the Arms Act and Sections 3/4 of Explosive Substances Act.

The prosecution case, as per the fardbeyan of Rubi Devi recorded by S.I., Krishna Kumar, Chauk P.S. on 12.04.2019 at 6.30 P.M., is to the effect that on the same day at 4.00 P.M., the husband of the informant, Devendra Kumar along with his staff Vivek Kumar had gone to Purab Darwaja for purchasing articles and unknown miscreants shot him dead near shop namely, Balaji dresses. Subsequently, the miscreants hurled explosives to disburse the public. Thereafter, the husband of the informant was taken to NMCH, Patna where he declared dead. During investigation, the name of the petitioner sprang up on the basis of CCTV footage situated near the place of occurrence and the confession of three apprehended co-accused namely, Vikash Kumar @ Lagra, Roshan Kumar @ Jigra and Ritik Raushan.

It is submitted by learned counsel for the petitioner that only on suspicion on the basis of CCTV footage, the petitioner and other co-accused including co-accused Raja Kumar @ Raja Choudhary were made accused. While considering the bail application of co-accused Raja Kumar @



Raja Choudary vide order dated 04.03.2020 passed in Cr. Misc. No. 64909 of 2019, a Co-ordinate bench of this Court observed that the impugned order does not stipulate the place where the camera was installed, preceding and succeeding images in the CCTV footage and whether there was any ancillary evidence in support of the implication of said accused and hence, remanded the matter back the learned Court below. On remand, the learned Additional Sessions Judge 1st, Patna City on 11.06.2020 granted bail to said co-accused Raja Kumar @ Raja Choudhary after coming to a definite finding that the camera was placed far away from the place of occurrence, the witnesses who identified the said accused have not been named in the case diary, the preceding and succeeding images have not been recorded in the CCTV camera and other evidences regarding the seizure of articles do not directly implicate the co-accused and granted bail to said co-accused Raja Kumar @ Raja Choudhary. However, the same learned Additional Sessions Judge while rejecting the prayer for bail of the petitioner on 20.06.2020, did not consider all aforementioned grounds on the basis of which, similarly situated co-accused Raja Kumar @ Raja Choudhary has been granted bail. The petitioner is languishing in custody since 02.05.2019 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. Moreover, the three co-accused persons, who named the petitioner in their confession, have been granted bail by the learned Court below.

Learned APP for the State submits that the name of the petitioner sprang up on the basis of CCTV footage.

It appears that on the bail application being remanded with regard to co-accused Raja Kumar @ Raja Choudhary, the learned Additional Sessions Judge passed the order on 11.06.2020 and granted bail whereas, the prayer for bail of the petitioner was rejected by the same learned Additional Sessions Judge on 20.06.2020 but the grounds on which, co-accused Raja Kumar @ Raja Choudhary has been granted bail, the same has not been appreciated by learned Additional Sessions Judge while considering the bail application of the petitioner. Hence, it appears that the learned Additional Sessions Judge has decided two two applications of accused persons on different parameters.

Considering the suspicious nature of accusation when learned Additional Sessions Judge has come to a definite finding that the camera was placed far away from the place of occurrence, there was no preceding and succeeding images



recorded in the CCTV camera and the other persons, on whose confession, the name of the petitioner sprang up, have been granted bail and the fact that the investigation has already been concluded, coupled with the 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 Additional Chief Judicial Magistrate-II, Patna City in connection with Chowk P.S. Case No. 161 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



Additional Chief Judicial Magistrate-II, Patna City in
connection with Chowk P.S. Case No. 161 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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