

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28739 of 2020

Arising Out of PS. Case No.-164 Year-2019 Thana- KHIJARSARAI District- Gaya

RAJA YADAV Son of Late Lakhman Yadav Resident of Village- Satamas,
Police Station- Khizarsarai, District- Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Gajendra Kumar Singh, Adv.

For the Opposite Party/s : Ms. Anita Kumari Singh, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

4 15-12-2020 The learned counsel for the parties were heard at length yesterday and today, the instant case has been listed under the heading for orders.

The petitioner seeks regular bail in connection with Khizarsarai P.S. Case No. 164 of 2019, registered for the offence punishable under Sections 302, 120(B), 34 of the Indian Penal Code and Section 27 of the Arms Act.

The case of the prosecution in brief is that in the night of 12-13.06.2019, the informant along with his family members were sleeping in his house while the father of the informant was sleeping in the courtyard situated on the side of



Devi Sthan. It is also alleged that at about 2:30 am. in the night, the informant heard sound of firearm firing and when he went outside his house with a torch in his hand, he found four accused persons including the petitioner herein fleeing away, whereafter the villagers had also assembled at the alleged place of occurrence and when the informant had gone to see his father, he found that one bullet had hit him near right ear and one bullet had pierced his chest and he was lying dead.

The learned counsel for the petitioner has submitted that the petitioner is innocent, he has been falsely implicated in the present case and he is languishing in custody since 10.12.2019. The learned counsel for the petitioner has further submitted that only since the petitioner is an accused in eight other criminal cases in which the petitioner is on bail, as per his instructions, he has been falsely roped in the present case. It is further submitted that there is no eye-witness to the alleged occurrence and in fact, the informant has also levelled a general and omnibus allegation as



against the petitioner herein and there is no specific allegation of the petitioner having fired gunshots on the father of the informant resulting in his death, hence, the petitioner is having no complicity in the matter.

Per contra, the learned APP has vehemently opposed the prayer for bail.

Having considered the submissions made by the learned counsel for the parties, taking into account the materials available on record and considering the materials available in the case diary, this Court finds that minuscule evidence is available against the petitioner herein in the case diary so as to connect him with the alleged occurrence and moreover, no specific allegation has been levelled by any of the witnesses qua the petitioner herein of him having fired the gunshots resulting in death of the deceased, who, in any view of the matter, was a person of criminal antecedent and had also engaged in commission of murder, apart from the fact that the informant is not an eye-witness to the actual occurrence,



hence, benefit of doubt can be granted to the petitioner for the purposes of grant of bail, thus, I deem it fit and proper to direct for release of the petitioner on regular bail.

Accordingly, the above named petitioner is directed to be enlarged on bail on furnishing bail bonds of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-4th, Gaya in connection with Khizarsarai P.S. Case No. 164 of 2019.

(Mohit Kumar Shah, J)

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