

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28789 of 2020

Arising Out of PS. Case No.-253 Year-2019 Thana- SALAKHUA District- Saharsa

BAIJNATH YADAV @ VAIJNATH YADAV Son of Laxmi Yadav Resident of Village- Morkahi, Ward No.04, Police Station- Alouli, District- Khagaria, presently residing at Village- Bagulwa Tola, Belahi, Police Station- Salkhua (Chiraiya), District- Saharsa.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjana

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

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

4 17-12-2020 The learned counsel for the parties were heard at length on 15.12.2020 and the instant case has been listed today (17.12.2020) under the heading “For Orders”.

The petitioner seeks regular bail in connection with Salkhua (Chiraiya) P.S. Case No. 253 of 2019 for the offence punishable under Sections 302/34 of the Indian Penal Code and section 34 of the Arms Act.

The case of the prosecution in brief, according to the informant is that his father namely Devendra Rai used to stay at his house and engage in agricultural activities, however, in the morning on 10.11.2019, the local people had informed him on his mobile that his father has been killed by gunshots having been fired on him at his residence on 09.11.2019 by unknown miscreants. It is further alleged that the informant and



other persons had then gone to the place of occurrence and found that the father of the informant was lying dead.

The learned counsel for the petitioner has submitted that the petitioner is innocent, has been falsely implicated in the present case and is languishing in custody since 13.12.2019. The learned counsel for the petitioner has further submitted that the FIR has been lodged against unknown persons and the name of the petitioner has transpired in the present case after about 27 days, belatedly, on account of his name having been disclosed by an independent witness namely Lakhan Sada, who has disclosed in his statement made before the police that on the alleged date and time of occurrence, he had heard sound of gunshot firing, whereafter he had seen four persons, including the petitioner herein armed with weapons, fleeing away from a place situated near the house of the deceased. It is thus submitted that neither there is any eye witness to the alleged occurrence nor there is any material to suggest the complicity of the petitioner in the alleged occurrence and that the petitioner is having a clean antecedent.

The learned APP appearing for the State has vehemently opposed the prayer for regular bail, made by the petitioner.



Having considered the submissions made by the learned counsel for the parties and taking into account the materials available on record as also those available in the case diary, it is apparent that the independent witnesses namely Lakhan Sada and Dhutar Sada have stated in their statements made before the police, recorded in Paragraph No. - 44 and 45 of the case diary, that after they had heard the sound of gunshots firing at the house of the deceased, they saw that the petitioner and three other accused persons, armed with weapon, were fleeing away from the spot. It is also apparent from the post-mortem report that external injuries and gunshot injuries having been found on the person of the deceased, which further corroborates the complicity of the petitioner in the alleged occurrence. A bare perusal of the materials available in the case diary also prima facie demonstrates the complicity of the petitioner in the alleged crime, hence, I am not inclined to enlarge the petitioner on bail especially since he is having involvement in the alleged occurrence of murder of the father of the informant, thus, the present petition stands dismissed.

(Mohit Kumar Shah, J)

Tiwary/-

U		T	
---	--	---	--

