

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 31854 of 2020

Arising Out of PS Case No.-639 Year-2019 Thana- DANAPUR District- Patna

Raj Kishore Kumar, aged about 24 years, Gender-M, Son of Late Jittu Rai,
Resident of Village- Agriculture Firm, P.S.- Sahpur, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Vijay Kumar Sinha, Advocate
For the State	:	Mr. Md. Anzarul Haque Sahara, APP
For the Informant	:	Mr. Suman Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 15-12-2020

The matter has been heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. The matter has been taken up out of turn on the basis of motion made by learned counsel for the petitioner yesterday, which was allowed.

3. Heard Mr. Vijay Kumar Sinha, learned counsel for the petitioner; Mr. Md. Anzarul Haque Sahara, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State and Mr. Suman Jha, learned counsel for the informant.

4. The petitioner is in custody in connection with Danapur PS Case No. 639 of 2019 dated 17.08.2019, instituted



under Sections 302, 120B/34 of the Indian Penal Code and 27 of the Arms Act.

5. As per the prosecution story, co-accused Chuchu Prasad along with others, including the petitioner, was quarreling in front of the informant's shop on 15.08.2019 and due to intervention of the petitioner, the matter was pacified. However, it is alleged that next evening on 16.08.2018 at about 7.00 PM, the accused had come and co-accused Chuchu Prasad had fired on the brother of the informant resulting in injury below the neck due to which he later succumbed.

6. Learned counsel for the petitioner submitted that though he is named as an accused along with four other named persons and 10-15 unknown persons, but from the reading of the FIR itself it is clear that there is nothing which can be termed as an allegation against the petitioner. Learned counsel submitted that the petitioner has only been named as being together with all the accused. It was further submitted that on both days, no overt act is alleged against the petitioner and on the fateful day, it is only alleged that all the accused came and straightaway Chuchu Prasad fired on the brother of the informant resulting in his death. Learned counsel submitted that the petitioner has no criminal antecedent and is in custody since 27.04.2020. It was submitted



that even the postmortem report discloses only one wound of entry and one of exit which clearly shows that only one shot was fired and the same is directly attributable to co-accused Chuchu Prasad. Learned counsel drew the attention of the Court to his supplementary affidavit in which he has brought on record copy of order dated 15.09.2020 of a co-ordinate Bench in Cr. Misc. No. 23524 of 2020 by which similarly situated co-accused Situ Kumar, who was in custody since 28.04.2020, had been granted bail.

7. Learned APP submitted that the petitioner was been one of the persons who had come along with Chuchu Prasad, who is said to have fired the shot. However, he did not controvert that no overt act is alleged against him and co-accused Situ Kumar is similarly situated to the petitioner.

8. Learned counsel for the informant submitted that charge sheet has been submitted in the case against the accused, including the petitioner and witnesses have supported the prosecution story.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, let the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned ACJM-I, Danapur in



Danapur PS Case No. 639 of 2019 subject to the conditions (i) that one of the bailors shall be a close relative of the petitioner, (ii) that the petitioner and the bailors shall execute bond with regard to good behaviour of the petitioner, and (iii) that the petitioner shall also give an undertaking to the Court that he shall not indulge in any criminal activity, tamper with the evidence or influence the witnesses. Any violation of the terms and conditions of the bonds or the undertaking shall lead to cancellation of his bail bonds. The petitioner shall cooperate in the case and be present before the Court on each and every date. Failure to cooperate or being absent on two consecutive dates, without sufficient cause, shall also lead to cancellation of his bail bonds.

10. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar/Anand Kr.

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