

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68773 of 2019

Arising Out of PS. Case No.-145 Year-2019 Thana- WAJIRGANJ District- Gaya

Md. Shahnawaz @ Mattha Son of Amin Uddin, Resident of Village-
Mastalipur, P.S.- Muffasil and District- Gaya.

... .. Petitioner

Versus

The State of Bihar.

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Manish Kumar No2, Advocate

For the Opposite Party/s : Mrs.Dr. Indiwari Kumari, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 24-01-2020 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

Petitioner in the present case is seeking regular bail in connection with Wajirganj P.S. Case No. 145 of 2019 registered for the offences punishable under Sections 302, 394, 307, 34 of the Indian Penal Code and Section 27 of the Arms Act.

Learned counsel for the petitioner submits that the petitioner is not named in the FIR and till date though he is in custody since 14.05.2019, no Test Identification Parade has been conducted, there is no identification by any independent witness and the observation of the learned Sessions Judge in the impugned order that the petitioner has been identified through CCTV footage during investigation is not correct inasmuch as it would appear from Paragraph '29' of the case diary in which the CCTV footage has been dealt with by the Investigating Officer that there was no



identification by face and the only motorcycle which was identified was found to be that of one Geeta Devi and not of this petitioner.

Learned counsel further submits that no incriminating article has been recovered from possession of the petitioner, he has no criminal antecedent and the co-accused Md. Shahnawaz @ Chhote at whose instance a country made pistol is said to have recovered has been granted regular bail by a learned Co-ordinate Bench of this Court in Cr. Misc. No. 71841 of 2019.

Learned A.P.P. for the State after going through the case diary and the paragraphs dealing with the CCTV footage and the confessional statement of the co-accused Md. Shahnawaz @ Chhote at whose instance country made pistol was allegedly recovered has accepted the position that in the CCTV footage there is no identification of this petitioner by face and/or his motorcycle in the said CCTV footage.

Considering the facts and circumstances of the case and the submission noted hereinabove wherein no material has been shown to this Court that the petitioner was either identified in the CCTV footage or his motorcycle has been identified therein, the petitioner has no criminal antecedent, he is in custody for about eight months and the co-accused at whose instance a country made pistol has been recovered has already been granted regular bail by



a learned Co-ordinate Bench of this Court, this Court directs release of the petitioner above named on bail in connection with Wajirganj P.S. Case No. 145 of 2019 on furnishing of bail bond of Rs. 15,000/- (fifteen thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-I, Gaya, 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.

(Rajeev Ranjan Prasad, J)

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