

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75044 of 2019

Arising Out of PS. Case No.-130 Year-2018 Thana- KHAJEKALA District- Patna

ARIF Son of Md. Ayub @ Tunnu @ Ayub Jama Resident of Village - Bartal,
Noonka Chauraha, Kashmiri Kothi, Ranipur Milki Chak, (Mogalpur), Patna
City, P.S.- Khajekalan, Distt.- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Prabhat Kumar, Adv.

For the Opposite Party/s : Mr .Jai Narain Thakur, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

5 14-08-2020 The court proceeding has been conducted through
virtual mode.

Heard learned counsel for the petitioner and Mr.
J.N. Thakur, learned counsel for the State.

The petitioner has renewed his prayer for bail in a
case registered for the offences punishable under Sections
302/34 of the IPC and Section 27 of the Arms Act.

The prosecution case got initiated on the
Fardbeyan of Chandani Pravin, recorded by S.I. Vinay Kumar
Singh, Khajekala Police Station on 14.05.2018 at 08.45 P.M., to
the effect that on the same day at 7.00 P.M., the younger brother
of the informant Arif was watching T.V. in the house when at
7.30 P.M., the brother's friend Jawed came to call him. The



informant forbade his brother to go and asked co-accused, Jawed to leave. But, thereafter, co-accused, Jawed again came and at his insistence, the brother of the informant went at the Majar situated in front of the house of the informant, where, co-accused, Salim and the petitioner Arif were standing from before. As soon as the informant's brother reached there, the petitioner Arif fired on the head of the informant's brother and thereafter escaped from the scene. Subsequently, the victim was taken to the N.M.C.H, Patna, but he was declared dead.

It is submitted by learned counsel for the petitioner that in fact, the informant was in love with co-accused Jawed and it was the co-accused Jawed, who called the brother of the informant since the brother of the informant objected their relationship, hence, the informant, in order to save the co-accused, Jawed, has named the petitioner. It is further submitted that the place of occurrence from the house of the informant is about eighty feet and there was a huge water tank in between the place of occurrence and the house of the informant, hence it is impossible for the informant to have witnessed the alleged occurrence. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent. Earlier bail application of the petitioner was rejected this Court,



vide order dated 28.01.2019, passed in Cr. Misc. No. 67718 of 2018 with a direction to the learned trial court to expedite the trial. The petitioner is languishing in custody since 16.05.2018 and till date the prosecution evidence has not been closed and in the present situation created due to pandemic, Covid-19, since the court proceeding is not functional in physical mode, there is no likelihood of the trial being concluded in near future. Moreover, the prosecution witnesses including the informant, during trial, have not supported the prosecution case.

Learned APP submits that there is specific accusation against the petitioner to have fired and during investigation co-accused Md. Jawed confessed his guilt and further stated that this petitioner resorted to fire on the brother of the informant. It is further submitted that the trial is at the verge of conclusion, as only the doctor remains to be examined. Though, learned counsel for the petitioner submits that two witnesses, the doctor and I.O. of the case are left to be examined.

Considering the fact that the trial is at the verge of conclusion, this Court is not inclined to revise the earlier order.

Accordingly, the prayer for bail of the petitioner, in S.T. No. 772 of 2018, arising out of Khajekalan P.S. Case



No.130 of 2018, pending before the learned ADJ-VII, Patna Cigty, Patna, is rejected.

However, if the trial is not concluded within two months of resumption of court proceeding in physical mode, the petitioner will be at liberty to renew prayer for bail.

Accordingly, the present application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

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