

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78412 of 2019

Arising Out of PS. Case No.-33 Year-2006 Thana- MATIHANI District- Begusarai

BUDHAN SINGH @ RAJ KUMAR SINGH Son of Ram Padarath Singh
Resident of Village - Sihama, P.S.- Matihani, Distt - Begusarai.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Ranjeet Kumar
For the State	:	Mr.Brajendra Nath Pandey
For the informant	:	Mr. Diwakar Prasad Singh

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

10 14-09-2020 Heard Mr. K. N. Choubey, the learned senior counsel for the petitioner, the learned APP and Mr. Diwakar Prasad Singh, the learned counsel for the informant.

The matter has been taken up through video conferencing.

The petitioner seeks bail in Matihani P.S. case No. 33/2006 registered u/s 302/34 of the IPC and u/s 27 of Arms Act.

The informant alleged that on 04.05.2006 his son, Rakesh Kumar @ Fantus, went to play cricket match. Several co-villagers were also present to see the cricket match. After the match was over, all the accused persons, including the petitioner, indiscriminately fired and killed the son of the informant on the spot. Some of the co-villagers came and informed the informant about killing of his son. The informant having received such information went there to saw the dead body of his son.

The learned senior counsel for the petitioner submits that there is omnibus and general allegation against the petitioner. The case is of the year 2006 and the petitioner was absconding but he was arrested on 16.09.2019 and since then he is in custody. The petitioner has remained in jail for 12 months for absconding for more than 12 years and therefore the petitioner has remained in jail for sufficient period. During the course of trial, similarly situated other accused



persons were granted regular bail or anticipatory bail. Now the accused persons have already been convicted and their bail have been refused in Cr. Appeal Nos. 1322/ 2017 and 1357/2017. The trial of the petitioner is still pending since the petitioner did not participate in the trial and he was absconding but the petitioner has remained in jail for one year and, therefore, he may be enlarged on bail.

The learned APP as well as the learned counsel for the informant vehemently opposed the prayer for bail and submitted that petitioner is a veteran criminal. The petitioner is alleged to have fired with AK 47 rifle along with other accused persons and as many as 10 wounds of entry were found on the body of deceased and this fact itself shows that the accused persons including the petitioner made indiscriminate firing killing the son of the informant on the spot. The petitioner was absconding for 12 years and he was arrested with prohibited weapons such as AK 47 rifle and pistol, therefore, the petitioner does not deserve bail.

Perused the FIR and the case diary.

The informant named the petitioner and others including Arbind Singh, Bambam Singh, Muknd Singh, Rajeev Singh, Upendra Singh and three unknown persons. Firstly, Arbind Singh, Mukhiya of the Gram Panchayat, exhorted and made firing. When the son of informant tried to flee away Bambam Singh, Rajeev Singh, Mukund Singh and Budhan Singh @ Raj Kumar Singh, the petitioner, made indiscriminate firing killing the son of the informant on the spot. In course of investigation the informant and other witnesses have made very specific allegation that the petitioner and other accused persons made indiscriminate firing killing the son of the informant on the spot. From the post mortem report, as contained in paragraph 46 of the case diary, it appears that as many as 10 wounds of entry, all caused by firearm, were found on the body of deceased. The petitioner has got criminal antecedent and on account of his absconding he was not put on trial. Other accused persons have



already been convicted.

Taking into consideration the facts aforesaid, I am not inclined to enlarge the petitioner on bail. Accordingly, the same is rejected.

The trial court is directed to hold the trial on day to day basis and conclude the same within one year from the receipt of this order.

The Superintendent of Police, Begusarai is directed to ensure the attendance of prosecution witnesses in the trial court so that the trial must be concluded within one year.

Let a copy of this order be sent to the trial court and Superintendent of Police, Begusarai for information and needful.

If the trial is not concluded within one year, for no fault of the petitioner, the petitioner, if so advised, may renew his prayer for bail.

(Prabhat Kumar Jha, J)

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