

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 78633 of 2019

Arising Out of PS Case No.-578 Year-2019 Thana- TURKAULIYA District- East Champaran

Shailendra Prasad Yadav, aged about 40 Years (M), Son of Late Chandrika Prasad Yadav @ Chandrika Prasad Resident of Village-Karamwa, Jaisingpur, PS-Turkauliya, District-East Champaran, Motihari.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sharda Nand Mishra, Advocate
For the State	:	Mr. Akhileshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 09-09-2020

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

2. Heard Mr. Sharda Nand Mishra, learned counsel for the petitioner and Mr. Akhileshwar Dayal, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioner apprehends arrest in connection with Turkauliya PS Case No. 578 of 2019 dated 21.08.2019, instituted under Sections 147, 148, 149, 341, 302 of the Indian Penal Code and 27 of the Arms Act.



4. As per the allegation in the FIR, 13 named accused persons, including the petitioner, came armed with various weapons and it is stated that at the behest of co-accused Bipin Yadav ordered to fire on the head of the deceased and kill him upon which co-accused Arvind Yadav also extorted to fire on the deceased and co-accused Lal Babu Yadav also did the same. It is alleged that co-accused Rakesh Yadav fired on the head of the deceased and thereafter, co-accused Lal Babu Rai again called for firing on the deceased upon which co-accused Dilip Kumar Yadav fired and thereafter co-accused Akhilesh Yadav, Kanhaiya Yadav and Harendra Yadav shook the body to ensure that the deceased had died and because co-villagers had gathered hearing gunshot firing, the other family members were saved from being killed.

5. Learned counsel for the petitioner submitted he has been named only as one among 13 persons without there being allegation of any direct overt act. It was submitted that the main assailants i.e., Dilip Yadav, Arjun Yadav and Rakesh Yadav are not related to him and he is only a co-villager. It was submitted that similarly situated co-accused Naresh Rai has been granted anticipatory bail by a co-ordinate Bench by order dated 25.08.2020 in Cr. Misc. No. 11724 of 2020, in which the Court has noticed that he was only named as one of the 13 accused in the



FIR. It was submitted that the petitioner is identically situated to him.

6. Learned APP, from the case diary, submitted that the petitioner was also part of the mob which committed the murder. However, he could not controvert that against the petitioner nothing has come even during investigation with regard to him having done any overt act in the crime and that against both the allegation and materials collected during investigation are the same.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, 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 Chief Judicial Magistrate, East Champaran, Motihari in Turkauliya PS Case No. 578 of 2019, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further, (i) that one of the bailors shall be a close relative of the petitioner and (ii) that the petitioner shall cooperate with the police/prosecution and appear before the Court on each and every date. Failure to cooperate or being absent on two consecutive



dates, without sufficient cause, shall lead to cancellation of his bail bonds.

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

(Ahsanuddin Amanullah, J.)

P. Kumar/Anand Kr.

AFR/NAFR	
U	
T	

