

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.81110 of 2019

Arising Out of PS. Case No.-160 Year-2019 Thana- RAMNAGAR District- West Champaran

FAIAZ @ FAIAZ SAH, Son of Late Noorain Shah, Resident of Village -
Kolhua, P.S. - Chautarwa, Distt - West Champaran.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Babita Kumari, Advocate
For the Opposite Party/s : Mr. Dinesh Singh, APP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

3 18-03-2020 Heard learned counsel for the petitioner and learned
APP for the State.

Petitioner seeks bail in a case registered for the
offences punishable under Sections 302, 120(B)/34 of the Indian
Penal Code and Section 27 of the Arms Act.

According to FIR, nine FIR named accused persons
along with three to four unknown under a conspiracy made
indiscriminate firing on the husband of the informant causing
his death. Land dispute is reason behind the occurrence of
commission of murder.

Learned counsel for the petitioner submits that
informant is not an eyewitness of the occurrence.

Paras 1, 2 and 3 of the case diary would reveal that
after getting rumour of murder, the police reached at the place of
occurrence. Inquest was prepared. No one was there to claim to



be the eyewitness of the occurrence. At the time of inquest report, brother of the deceased stated before the police, vide para 7 of the case diary, that when he reached there, he found all the persons firing at the deceased. Later on, three relatives of the deceased stated before the police that they were eyewitness of the occurrence vide paras 32, 33 and 34 of the case diary and the specific allegation is that the petitioner was also one of the assailants of the deceased.

Learned counsel for the petitioner submits that on the basis of material aforesaid including considering the statement of the witnesses in paras 32, 33 and 34 of the case diary, a Coordinate Bench of the Court has granted bail to co-accused Chhote Khan @ Minhaz Khan @ Minhaj Ali, vide order dated 05.03.2020 passed in Cr. Misc. No. 72844 of 2019.

Learned counsel for the informant submits that case of the petitioner is distinguishable as there was no specific allegation against Chhote Khan @ Minhaz Khan @ Minhaj Ali of commission of death in the statement of witnesses in paras 32, 33 and 34 of the case diary. He further submits that Guddu Giri and Puttu Mishra have already been refused bail by a Bench of this Court because they were also specifically named as assailant.

Since the so-called eyewitnesses are close relations of the deceased, there was no reason to not disclose about the



occurrence and about the identify of the real participants at the earliest stage, especially, at the time of lodging of the FIR. Therefore, in my view, the petitioner deserves prayer for bail. Hence, let the petitioner, above named, be released on bail on furnishing bail bond of Rs.20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Court below where the case is pending in connection with Ramnagar Police Station Case No. 160 of 2019, subject to the following conditions:-

(a) The petitioner shall fully cooperate with the investigation/trial of the case, failing which the learned court below shall be at liberty to cancel the bail bond of the petitioner.

(b) Both the bailors shall be resident of the territorial jurisdiction of the learned court below.

(c) The petitioner shall not leave the country without permission of the learned trial court.

If any complaint comes against the petitioner before the learned trial court that the petitioner is threatening to the witnesses, the learned court below shall conduct inquiry and thereafter pass necessary order according to law.

(Birendra Kumar, J)

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