

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.87512 of 2019

Arising Out of PS. Case No.-186 Year-2001 Thana- ASHTHAWAN District- Nalanda

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JAYRAM KUMAR @ JAYRAM PRASAD @ JAYRAM KUMAR
MAHATO Son of Kamta Mahto Resident of Village - Satakpur, P.S.- Bind,
Distt - Nalanda.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Y.C. Verma

For the Opposite Party/s : Mr.Ram Priya Sharan Singh

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

5 01-06-2020 The present case was heard at length on 27.05.2020
and today, it has been listed under the heading “For Orders”.

The petitioner seeks regular bail in connection with
Asthawan (Bind) PS case no. 186 of 2001 instituted for the
offences punishable under Sections 302, 201/34 of Indian Penal
Code and 27 of Arms Act.

The case of the prosecution as per the FIR
lodged by the informant Sanjay Kumar is that after the
informant along with his younger brother, who had gone to the
vegetable field were returning back to their house, the accused
persons including the petitioner, variously armed with
countrymade rifle had arrived at the place of occurrence
whereafter they had caught the brother of the informant namely



Bipin and had started assaulting him, whereupon protest was made by the informant namely Sanjay Kumar, however the accused persons had forcibly taken the brother of the informant towards the river and had also fired on the informant and his family members, when they had tried to chase the accused persons. It is further alleged that at the instigation of the co-accused person namely Kamta Prasad, the petitioner and co-accused persons had fired three gun shots on the brother of the informant causing firearm injuries on him and then, the accused persons had thrown the brother of the informant in the river and subsequently, the informant and his family members had fished out the dead body of the deceased brother of the informant.

The learned Senior counsel for the petitioner has submitted that the story as propounded by the informant, is improbable, inasmuch as if the accused persons were armed with gun, there was no reason to take the deceased across the river and kill him and the accused persons could have killed the deceased then and there. It is further submitted that the post- mortem report would show that there is no gun shot injury on the person of the deceased, hence the entire incident has been concocted and the petitioner has been falsely implicated in the



present case. The petitioner is stated to be having a clean antecedent and is languishing in custody since 22.04.2019 and moreover, he suffers from mental disease. Lastly, it is submitted that co-accused person Kamta Prasad has been granted bail by a co-ordinate Bench of this Court vide order dated 08.07.2003, passed in Cr. Misc. no. 12720 of 2002. The learned Senior counsel for the petitioner has also invited the attention of this Court to paragraph no. 25 of case diary which is the inquest report to show that there is no gun shot injury.

Per contra, the learned counsel for the brother of the informant namely Mr. Rewati Kant Raman has submitted that the informant has also been murdered at the behest of the accused persons, for which an FIR has also been lodged. It is submitted that as far as the present case is concerned, the incident pertains to the year 2001 and the FIR was lodged on 05.09.2001, whereafter the petitioner had absconded and has been taken into custody only on 22.04.2019. It is further submitted that the co-accused persons have already been tried and convicted in the present case. Lastly, it is submitted that a bare perusal of the entire case diary would show that there are ample materials in the present case so as to connect the petitioner with the alleged crime.



The learned counsel for the State has also vehemently opposed the prayer for bail.

I have heard the learned Senior counsel for the petitioner and the learned counsels for the opposite parties as also for the brother of the informant. This Court finds that as far as inquest report (para 25 of the case diary) is concerned, sub-clause 8 states that the deceased was killed by gun shot injuries. This Court further finds from the case diary that there are ample materials on record to show the complicity of the petitioner in the alleged crime. The petitioner is alleged to have fired gun shots on the deceased, hence there is a direct allegation upon him. This Court is also of the view that since the petitioner had been absconding for a period of about 18 years, it would not be just & proper to grant bail to such a person, who has got no respect for the process of Law.

Considering the aforesaid facts and circumstances of the case as also taking into account the submissions made by the learned counsel for the parties, especially the learned counsel appearing for the brother of the informant and further considering the materials available in the case diary which definitely prima facie shows complicity of the petitioner in the alleged crime as also connects the petitioner with the alleged



crime, apart from the fact that the petitioner is the main assailant and has been absconding for about 18 years, this Court does not find any merit in the prayer of the petitioner for grant of regular bail, hence the present petition stands dismissed.

(Mohit Kumar Shah, J)

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