

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.86187 of 2019**

Arising Out of PS. Case No.-104 Year-2019 Thana- BUXAR MUFFSIL District- Buxar

=====

BUNTY YADAV @ RAHUL KUMAR @ BANTI YADAV Son of Ravindra
Kumar Singh Resident of Village - Musafirganj, Ward No. 9, Nai Bazar,
Police Station - Buxar (Town), District- Buxar.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Rajeev Ranjan, Adv.

For the Opposite Party/s : Mr. J. N. Thakur, APP

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

9 25-08-2020 The matter has been taken up through virtual Court
proceeding.

Since the physical Court is not functional due to the
present pandemic, Covid-19, the matter has been listed with
defects.

Learned counsel for the petitioner undertakes to
remove the defects within a period of three weeks on
resumption of physical court proceeding.

In case of non-removal of the defects within the
undertaken period, the office will place the matter before the



bench.

Heard learned counsel for the petitioner and learned APP for the State.

The petitioner has preferred the present application for grant of bail in a case registered for the offences punishable under Sections 302/34/120B of the Indian Penal Code.

The prosecution case as per the fardbeyan of Rakesh Kumar Singh recorded by S. I. J. N. Yadav of Buxar (M) Police Station on 03.04.2019 at 4.00 P.M. at Sadar Hospital, Buxar is to the effect that on 03.04.2019 at 12.00 P.M., Sambhu Kumar Shukla came to the hosue of the informant and took his younger brother on a motorcycle. The said Shambhu Kumar Shukla used to accompany the brother of the informant since last few days. On the same day, at 03.25 P.M., the informant came to know that his brother was shot and has taken to Sadar Hospital, Buxar. Thereafter, the informant reached to the hospital and found his brother Anil Kumar Singh dead. The informant claimed that his brother has been killed under a conspiracy hatched by co-accused, Shambhu Kumar Shukla, leading to registration of FIR against co-accused, Shambhu Kumar Shukla and unknown. The name of the petitioner sprang up when he was arrested and made his confession to the extent that he was



accompanying the assailant, co-accused, Prakash Upadhyay and Pawan Shukla on a motorcycle whereas in the confession of co-accused, Pawan Shukla it has come that the firing was resorted to by this petitioner and co-accused Pawan Shukla causing injury to Anil Kumar Singh.

Learned counsel for the petitioner submits that the except the confession of co-accused, Pawan Shukla none had named the petitioner. The informant neither in the FIR nor in the subsequent statement has named the petitioner. The other co-accused, who was accompanied the victim Anil Kumar Singh, namely, Shambhu Kumar Shukla, he claims that on the order of co-accused, Jhunna Shukla @ Amrendra Shukla, Pawan Shukla fired at him and he received injuries on the right temporal region. Co-accused, Shambhu Shukla named the petitioner to the extent that he claimed to have seen the accused persons on spot. It is further submitted that the mother of the petitioner Pushpa Devi has not named the petitioner in his statement recorded at paragraph no. 40 of the case diary. Though the petitioner is accused in nine cases, but it is recorded in the order of the learned Sessions Judge that he is accused in ten cases and out of nine cases in seven cases, he is on bail.

Learned APP for the State submits that the petitioner



has made confession that he was accompanying the assailant rather he was driving the motorcycle on which the assailants were travelling and co-accused, Pawan Kumar Shukla made his confession that the petitioner and co-accused Pawan Kumar Shukla fired on Shambhu Kumar Shukla and Anil Kumar Singh. Moreover, the petitioner has serious criminal antecedent.

Having considered rival submissions of the parties and the material available on record, it appears that the petitioner is not named in the FIR nor any of the family members of the victim have named the petitioner, the petitioner has made his confession before the police to the extent that he was driving the motorcycle on which the assailants Pawan Kumar Shukla and Prakash Upadhayay were travelling who fired on Anil Kumar Singh and Shambhu Kumar Shukla. Though co-accused, Pawan Kumar Shukla in his confession recorded at paragraph no. 110 of the case diary stated that on the order of Jhunna Shukla, this petitioner and co-accused, Pawan Kumar Shukal fired on Anil Kumar Singh and Shambhu Kumar Shukla. But the injured Shambhu Kumar Shukla has named the petitioner and he saw the assailant as Pawan Shukla. The confession does not laid to any recovery.

Considering the aforesaid fact and as well as also in



view of the fact that there is no likelihood of trial being concluded in near future since the physical court is not conducted due to the pandemic, Covid-19, let the petitioner above named be released on bail for the present provisionally for a period of six months on furnishing one surety to the satisfaction of the learned CJM, Buxar, in connection with Buxar (M) P.S. Case No. 104 of 2019.

However, in view of the present pandemic, COVID-19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card, to the effect that he is ready to become the bailor of the petitioner which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional bail of the petitioner will be confirmed by the learned Court below within six months if the petitioner will not get involved in some substantial nature of offence or default for two consecutive occasions, on furnishing bail bond of Rs.10000/- (ten thousand) with two sureties, including one surety given at the time of provisional bail, of the like amount each to the satisfaction of the learned CJM, Buxar, in connection with Buxar (M) P.S. Case No. 104 of 2019.

The learned Court below will further be at liberty to



extend the period of provisional bail further if the court proceeding in physical mode will not resume in next six months.

Accordingly, the application stands disposed of.

(Dinesh Kumar Singh, J)

Ashwini/-

U		T	
---	--	---	--

