

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18623 of 2021

Arising Out of PS. Case No.-19 Year-2018 Thana- MEHUSH District- Sheikhpura

Vivek Kumar Son Of Late Birendra Singh Resident Of Village- Chandi, P.S.
Sheikhpura, District- Sheikhpura

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. P.K. Shahi, Sr. Advocate Mr. Vipin Kumar, Advocate
For the State	:	Mr. Rabindra Kumar, APP
For the Informant	:	Mr. Ritwik Thakur, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 01-11-2021 A supplementary affidavit has been filed today.

Let it be placed on the record.

Heard Mr. P.K. Shahi, learned Senior Counsel assisted by Mr. Vipin Kumar, learned Advocate for the petitioner, Mr. Ritwik Thakur, learned counsel for the informant and Mr. Rabindra Kumar, learned A.P.P. for the State.

Petitioner, in the present case, is seeking regular bail in connection with S. Tr. No. 10/2020 arising out of Mehus P.S. Case No. 19 of 2018 registered for the offences punishable under Section 302, 120(B)/34 of the Indian Penal Code and Section 27 of the Arms Act. He is in custody since 20.09.2019. As stated in paragraph '3', the



petitioner has got five criminal antecedents.

As per the prosecution story, one Shankar Dani Singh had gone to Ramnubigha chowk with his son on a motorcycle, he was moving towards his Chimney when the fire-arm shots were fired upon him, the informant who happens to be the son of said Shankar Dani Singh saw the alleged occurrence. According to the informant, the deceased was fired at by co-accused Niranjana Kumar, this petitioner and one Kanhaiya Kumar. Against this petitioner, it is alleged that he had fired upon the head of the deceased. Altogether 14-15 shots were fired as a result whereof father of the informant died on the spot itself.

Learned Senior Counsel for the petitioner submits that in this case though the informant has made allegation against co-accused Chitranjan Kumar, Niranjana Kumar and Kanhaiya Kumar of their active participation in the alleged occurrence, in the supplementary charge-sheet police has not sent up the accused namely, Chitranjan Kumar, Niranjana Kumar and Kanhaiya Kumar for trial. It is, thus, his submission that the informant's version as an eye witness stands diluted in course of investigation.



From Annexure '3' to the supplementary affidavit, it appears that the informant had moved this Court when the investigation against some of the accused were kept pending. During pendency of the said case police has submitted final form no. 38/2021 on 12.08.2021. Learned counsel for the parties are, however, not aware as to what happened thereafter.

Mr. Shahi, learned Senior Counsel has, thus, submitted that once the informant's version could not be substantiated against some of the accused, it would not be safe to rely upon his allegations as contained in the First Information Report.

On the other hand, learned counsel for the informant as well as learned A.P.P. for the State submits that so far as this petitioner is concerned, he stands charge-sheeted with some of the accused and in the case diary there are witnesses who have stated that this petitioner had fired upon the deceased. It is submitted that this petitioner has got criminal antecedents of serious nature and considering that presently the trial is going on, if he is released on bail there is every possibility that the remaining witnesses who



are still to depose will be frightened off and the whole trial will be derailed.

Learned A.P.P. for the State also submits that in the case diary altogether six cases are mentioned including the present case. The petitioner has got cases under the Arms Act, two cases under Section 302 I.P.C., under Section 396 I.P.C. etc., therefore, he is involved in serious offences and at this stage, considering the seriousness of the allegation against him, he does not deserve privilege of bail.

This Court had called for a report from the learned trial court as to the present stage of the trial and the time likely to be taken in conclusion thereof. The learned District & Sessions Judge, Sheikhpura has informed vide letter no. 32 dated 21.10.2021 that 7 (seven) charge-sheeted witnesses including independent witnesses, the doctors and the I.Os. are yet to be examined and the court will try it's best to conclude the trial within a period of next six months.

Considering the gravity of the offence alleged against the petitioner, the specific allegation that he had fired upon the head of the deceased, the involvement of the petitioner in several criminal cases of serious nature and



that in this case the trial has already begun and some of the witnesses are going to be examined very soon, this Court is of the considered opinion that the petitioner does not deserve privilege of bail at this stage.

This Court agrees with the view of learned A.P.P. for the State that his release is likely to result in threatening of witnesses and it may derail the course of trial. Moreover, the learned trial court is likely to conclude the trial within a period of six months. This Court, therefore, refuses to enlarge the petitioner on bail.

While rejecting the prayer for bail of the petitioner, this Court expects that the learned trial court shall keep the records of this case in the physical Courts and with a short interval all endeavours shall be made to conclude the trial as early as possible and preferably within a period of six months from the date of receipt of communication of this order.

The Public Prosecutor as well as the Superintendent of Police, Sheikhpura shall ensure the presence of all the witnesses particularly the official witnesses such as doctors, I.Os. must be present on the date



fixed by the learned trial court.

If the trial remains unconcluded for no plausible reason attributable to this petitioner, the petitioner may renew his prayer for bail.

Let a copy of this order be communicated to the Superintendent of Police, Sheikhpura to ensure presence of witnesses.

This application stands disposed off accordingly.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

