

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20942 of 2020

Arising Out of PS. Case No.-18 Year-2010 Thana- GOPALGANJ TOWN District- Gopalganj

Surenbra Yadav, aged about 46 years (Male), Son of Late Sipahi Yadav,
Resident of Village - Rampur Tengrahi, P.S.- Jadavpur, Distt - Gopalganj.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner	:	M/S. Ashok Kumar Choudhary and Dhirendra Kumar Gupta, Advocates.
For the Opposite Party	:	Mr. Satyavrat Verma, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 16-03-2021 Heard learned counsel for the petitioner and learned
A.P.P. for the State through Virtual mode.

Learned counsel for the petitioner is directed to
remove the defects, as pointed out by the office, within a period
of four weeks.

The petitioner seeks bail in a case for the offence
registered under Sections 302/34 of the I.P.C. and 27 of the
Arms Act. Later on, Section 120(B) of the I.P.C. was also added.

The prosecution story, in brief, is that on 11.01.2010,
the informant alongwith his elder brother Brajesh Rai and
relatives Ashok Rai, Lalan Rai and Vijay Rai was returning from
Gopalganj on his Jeep at his house. His elder brother Brajesh
Rai and relative Ashok Rai were sitting on the front seat and



other on rear seat and Ashok Rai was driving the Jeep. When the Jeep reached near the *Yadipur More* and further proceeded towards north of N.H., a silver colour *Bolero Jeep* overtook the Jeep and stopped the way. The accused persons including the petitioner, who were armed with sophisticated weapons, got down from the Jeep and on exhortation of Shailendra Shekhar Mishra, other accused persons including the petitioner started firing with their respective weapons which caused fatal injury to Brajesh Rai and Ashok Rai. The informant brought them at Gopalganj Hospital for treatment where the doctor declared them dead.

This is fifth attempt on behalf of the petitioner for grant of bail.

Earlier bail applications of the petitioner were rejected by a Bench of this Court vide Cr. Misc. No. 26194 of 2016 under order dated 02.09.2016, Cr. Misc. No. 17903 of 2017 under order dated 20.04.2017, Cr. Misc. No. 54149 of 2017 under order dated 23.04.2018 and Cr. Misc. No. 23911 of 2019 under order dated 03.07.2019, annexed as Annexure-1 series to the present application.

From perusal of the last order dated 03.07.2019, passed in Cr. Misc. No. 23911 of 2019, it is apparent that the



District Magistrate, Gopalganj and the Superintendent of Police, Gopalganj, were directed to ensure that the prosecution witnesses were produced on the date fixed by the court below so that the trial could be concluded within the stipulated period.

As far as allegation is concerned, the petitioner is named in the F.I.R. The case relates to double murder. The informant is an eye witness to the alleged occurrence. As per the witnesses, namely, Lalan Rai and Vijay Rai, whose statements were recorded in paragraph nos. 10 and 15 of the case diary, have alleged that the petitioner had participated in the alleged occurrence. As far as other accused person, namely, Birendra Yadav is concerned, he has been convicted by the court below and his appeal is pending in the High Court. His suspension of sentence and grant of bail has also been rejected by the High Court in Cr. Appeal (D.B.) No. 945 of 2015. The petitioner had absconded for a long period. Hence, his trial got delayed.

A report was called for from the court below regarding the present stage of the case. It has been reported that 08 prosecution witnesses have been examined and prosecution evidence has been closed and the case is awaiting for recording of the statement of the accused under Section 313 of Cr. P.C. and the trial is likely to be concluded within a period of three



months.

It has been submitted by learned counsel for the petitioner that the prosecution has filed an application before the Trial Court for examination of the Investigating Officer and the Doctor who have not been examined in the present case. Hence, the trial is not likely to be concluded in near future.

On behalf of the learned counsel for the State, it has been submitted that the petitioner is named in the F.I.R.

Considering the nature of accusation and the allegation as levelled against the petitioner, I am not inclined to grant bail to the petitioner. The same is rejected in connection with Gopalganj P.S. Case No. 18/2010, Sessions Trial No. 738/2016, pending in the court of learned Additional Sessions Judge-VII, Gopalganj.

The court below is directed to take all necessary steps to get the remaining official witnesses examined at the earliest preferably within a period of six months from the date of receipt/production of copy of this order.

The District Magistrate, Gopalganj and the Superintendent of Police, Gopalganj are again directed to take necessary steps to produce the remaining official witnesses in the court on the date fixed by the court below so that the trial



could be concluded within the stipulated period.

Let a copy of this order be communicated to the District Magistrate, Gopalganj and the Superintendent of Police, Gopalganj.

(Sudhir Singh, J)

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