

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.19473 of 2021**

Arising Out of PS. Case No.-135 Year-2020 Thana- GAMAHARIYA District- Madhepura

NISTU KUMAR @ BOUA S/o Anil Yadav R/o Village- Pokhram, Ward
No.03, P.s.- Murliganj, Dist- Madhepura.

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Dinesh Prasad Verma, Advocate
For the Opposite Party/s : Mr. Akhileshwar Dayal, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

3 24-09-2021 Learned counsel for the petitioner undertakes to

remove all the defects as pointed out by office within four

weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Mr.

Akhileshwar Dayal, learned A.P.P. for the State.

Petitioner in the present case is seeking regular bail in

connection with Gamahariya P.S. Case No. 135 of 2020

registered for the offences punishable under Section 302/34 of

the Indian Penal Code and Section 27 of the Arms Act. He is in

custody since 24.08.2020.

As per the prosecution story when the father of the

informant was returning home and had stopped at a pan shop,

some unknown criminals fired bullet over him and the

informant's father fell down after receiving the bullet injury, thereafter he died on the way to hospital.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case. In the case diary it has come that six persons were present with the deceased out of whom three persons have been examined by I.O. but none of them have identified the assailants. Learned counsel further submits that the name of the petitioner has transpired in the confessional statement of co-accused Prahlad Kumar who has disclosed that co-accused Raja and one Ashish Kumar son of Sikander Yadav had fired bullets causing death of the father of the informant.

Learned counsel further submits that when the C.D.R. of the mobile phone was taken out, it was found that the said mobile was in the name of Nistu Kumar @ Boua (this petitioner) but the father's name is Sikander Yadav. It is thus his submission that connection between the petitioner and the co-accused Prahlad Kumar on whose confessional statement the name of the petitioner has been brought in this case is not well established. It is his further submission that although learned A.P.P. submits that there are two injuries but a close perusal of the post-mortem report would show that there is only one injury

on the body of the deceased and the same has been noticed in the inquest report. It is his further submission that in course of investigation it has come that the deceased had prior enmity with co-accused Roushan Kumar @ Hitler and Ram Kumar Paswan.

Having regard to the facts and circumstances of the case wherein this Court has noticed that although the three persons who have been examined have not identified the assailants, in course of investigation it has come that the mobile phone which is in the name of Nistu Kumar @ Boua and the mobile of the co-accused Prahlad Kumar on whose confessional statement the name of the petitioner has come and that of Hitler were in touch with each other showing talk between the petitioner and co-accused Hitler on 07.08.2020 and the talk between the petitioner and the co-accused Prahlad Kumar on whose confessional statement the name of the petitioner has transpired on 10.08.2020 and 11.08.2020. This is connecting to the statement of the co-accused that this petitioner had fired upon the deceased, though the father's name is said to be Sikander Yadav but considering the gravity of the offence alleged and the connections noticed, this Court is not in favour

of giving a consideration to the discrepancy with respect to the father’s name. There is a specific allegation and the material connecting the petitioner with the alleged occurrence in which he is said to be one of the assailants. Prayer for bail of the petitioner is, thus, refused.

Let the trial be expedited.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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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’.