

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21350 of 2021

Arising Out of PS. Case No.-51 Year-2020 Thana- AANDAR District- Siwan

=====

MONU DUBEY Son of Late Rajesh Dubey @ Gillu Dubey Resident of
Village - Gherai, P.S.- Aandar, District - Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Ajay Kr. Thakur, Sr. Advocate
Mr. Udbhav
For the Opposite Party/s : Mr.APP

=====

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 23-11-2021 Heard Sri Ajay Kumar Thakur, learned senior
counsel for the petitioner, Sri Prasant Kashap, learned counsel
for the informant and Sri Ravindra Kumar, learned APP for the
State.

Petitioner seeks bail in connection Aandar P.S. Case no.
51 of 2020 registered for the offence punishable under sections
302/34, 212 and 120B of the Indian Penal Code read with
section 27 of the Arms Act.

Learned senior counsel for the petitioner submits that
from perusal of the allegation as alleged in the FIR, it would
manifest that the informant who is wife of the deceased has
specifically taken names of the accused persons who came to
her house and sat with her husband. Further, she also alleged



that when accused persons came to her house, deceased asked the informant to make tea for them. Thereafter, she alleges that accused persons started indiscriminate firings causing death of her husband. Further, informant also alleges that she saw who fired and even recognized them. Learned senior counsel for the petitioner submits that from perusal of the allegation as alleged in the FIR, it would manifest that accused persons including this petitioner was known to the deceased and his wife. Further, that the deceased had requested the informant to make tea for the accused persons that itself demonstrates that they were known to each other very well. It is further submitted that though the informant alleges that she saw the accused persons firing and even alleges that she recognized them but FIR is completely silent with respect to the fact that who were assailants and who fired at the deceased. It is thus, submitted that either the informant did not witness the occurrence or if she witnessed the occurrence and recognized the assailants then for reason best known to her she did not disclose the name of real assailant.

Learned senior counsel for the petitioner relies on two orders of this court dated 21.12.2020 in Cr. Misc. no. 29005/2020 and order dated 05.10.2021 in Cr. Misc. no. 27070/2021 whereby co-accused Mantu Yadav and



Chandrabhan Yadav have been granted regular bail. Learned senior counsel for the petitioner further submits that from perusal of both orders, it would manifest that it was Rishu Pandey and Sonu Yadav who inflicted two firearms injuries, therefore, the allegation that six accused persons made repeated firing upon the husband of the informant does not get corroborated from post mortem report. It is further submitted that since allegation of firing is against Rishu Pandey and Sonu Yadav and not against this petitioner as such petitioner deserves to be enlarged on bail. Learned senior counsel for the petitioner further submits that petitioner has antecedent as mentioned in para 3 of the petition where he has been falsely implicated.

Learned counsel for the informant from case diary submits that case of co-accused who have been granted bail is not similar to the case of the present petitioner. It is submitted that during course of investigation at para 175 of the case diary confessional statement of this petitioner is recorded wherein he has stated that there was land dispute between him and the deceased as such he wanted to eliminate the deceased. Accordingly, a deal was struck for Rs 5 lac in which 1.5 lac was given by way of advance and the petitioner was acting as a liner i.e. he got the deceased identified. Learned counsel for the



informant further submits that confessional statement of Rishu Pandey is recorded at para 251 of the case diary and he stated that he wanted to kill the deceased for which he met the petitioner and said that he wanted to kill the deceased on which this petitioner agreed as he was having enmity with deceased as such he agreed to pay Rs 5 lac to Rishu Pandey for committing the occurrence.

Learned senior counsel for the petitioner submits that from perusal of both confessional statements, it would manifest that the same are dichotmic either it was the petitioner who wanted to eliminate the deceased or it was Rishu Pandey who wanted to eliminate the deceased. He further submits that it does not stand to reason that Rishu Pandey would have approached the petitioner for killing the deceased because of enmity and the deceased would have agreed to pay Rs 5 lac for committing the occurrence. Further learned counsel for the informant on oral instruction submits that trial is going to commence from today.

Learned APP vehemently opposed the prayer for bail.

Considering the facts that petitioner is in jail custody since 05.05.2020, charge sheet has been submitted and two co-accused who are not assailants like the petitioner have been granted bail by this court, the petitioner is directed to be



released on bail on furnishing bail bonds of Rs 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the Fast Track Court I, Siwan in Sessions Trial no. 213/2020 arising out of Aandar P.S. Case no. 51 of 2020.

(Satyavrat Verma, J)

s.hassan/-

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

