

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22518 of 2021

Arising Out of PS. Case No.-373 Year-2020 Thana- NATHNAGAR District- Bhagalpur

Sunil Poddar, S/o Late Lakhan Poddar, R/o village- Madhopur/Madjopur,
P.S.- Nathnagar, District- Bhagalpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ranjan Kumar Jha
For the Opposite Party/s : Md. Matloob Rab, APP

CORAM: HONOURABLE MR. JUSTICE A. M. BADAR
ORAL ORDER

4 15-12-2021 The applicant/accused in Crime No. 573 of 2020 registered with Nathnagar Police Station for the offences punishable under Sections 147, 148, 149, 307 and 302 of the Indian Penal Code as well as Section 27 of the Arms Act at the instance of first informant Birendra Kumar - an Advocate, by this application is seeking his release on bail during course of the trial. The applicant is behind the bars from 23.09.2020.

Heard the learned counsel appearing for the applicant/accused. He drew my attention to the FIR lodged by Birendra Kumar and contended that role of firing bullets is attributing to accused Baltu Mandal, Mritunjay Mandal, Jattu Mandal and Kundal Mandal. It is further argued that the report of postmortem examination of the deceased belies the case of the prosecution.



The learned Additional Public Prosecutor opposed the application by contending that from the spot of the incident, three empties were recovered.

I have considered the submissions so advanced and also perused the case dairy.

First informant Birendra Kumar is an Advocate. In the incident in question his father Surya Narayan Mandal died homicidal death. Report of postmortem examination of dead body of Surya Narayan Mandal shows that the bullet had pierced skin, tissues, blood vessels of left side of his neck, trachea oesophagus and fractured 2nd thoracic vertebra causing his death.

According to the prosecution case, first informant Birendra Kumar is an Advocate representing the accused persons namely Mritunjay, Ritunjay, Jatto, Baltu and Nirmala Devi in Sessions Trial No. 103 of 2016 and the incident in question took place because of the advised given by him to Urmala Devi who happens to be mother of the first informant.

First informant Birendra Kumar averred that accused persons including the applicant Sunil Poddar came to his house when he was leaving the house for the court. The first informant further averred that thereafter co-accused Baltu



Mandal, Mritunjay Mandal, Jattu Mandal and Kundan Mandal started firing from the country made pistols from the gate of his frontyard. Whereas applicant Sunil Poddar, co-accused Umesh Mandal and Ritunjay Mandal started firing from “Phulwari” by hiding there. In that process a bullet hit his father Surya Narayan Manal.

Sushila Devi, wife of the first informant is one of the eye witnesses and she has stated about presence of the applicant on the spot of the incident.

The prosecution is invoking the provisions of Section 149 of the Indian Penal Code for applying the principle of vicarious liability to the crime in question. Presence of the applicant on the scene of the occurrence is even stated by wife of the first informant. The first informant is attributing role of firing bullets to the applicant. Therefore, even if the present Applicant is not an accused in the Sessions Case, that aspect has no bearing in the issue at present because when the incident is witnessed by witnesses then motive becomes insignificant.

From the spot of the incident, three empties were recovered. The first informant as well as his wife who is an eye witnesses to the incident is attributing active role to the



applicant, no case for grant of bail to the applicant/accused is made out. Application is rejected.

Needless to mention that the learned trial court shall not be influenced by the observations made by this Court in the instant order which shall have no bearing on the trial of the offence.

The applicant to remove all office objections forthwith and the Registry to issue the certified copy of this order only after removal of office objections by the appellant/accused.

(A. M. Badar, J)

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