

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15295 of 2020

Arising Out of PS. Case No.-151 Year-2018 Thana- UCHKAGAON District- Gopalganj

BABALU DUBEY @ RAJESH KUMAR DUBEY S/o Sri Baleshwar Nath
Dubey @ Baleshwar Dubey Resident of Balesara, P.S.- Uckagaon, Distt-
Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Y.V. Giri, Sr. Adv.
Mr. Pranav Kumar, Adv.
For the Opposite Party/s : Mr. Uday Pratap Singh, APP

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

8 22-12-2021

Heard learned counsel for the parties.

The petitioner has renewed his prayer for bail in a case registered under sections 302, 307, 452, 326 and 120B of the Indian Penal Code.

As per the prosecution case, while the informant was sitting along with his son and others at his *darwaja*, it is stated that Suresh Chaudhary and Bablu Dubey came there and Suresh Chaudhary fired on the son of the informant. On the informant going to rescue his son, it is stated that Bablu Dubey fired twice at the informant. On the wife and younger son of the informant coming out on hearing the sound of firing it is stated that Suresh Chaudhary fired on the informant's wife while Bablu Dubey fired on the informant's younger son. On being taken to the



hospital for treatment, the informant's son Satendra Chaudhary died. The informant's wife and other son were referred to Gorakhpur.

It is submitted by learned Senior Counsel for the petitioner that the petitioner has been falsely implicated in the case. The earlier application for bail of the petitioner was rejected vide order dated 3.10.2018 (Annexure-1) passed in Cr. Misc. no.53236 of 2018. Referring to various paragraphs of the case diary it is submitted that the informant died subsequently in course of treatment. However, the written statement cannot be treated as a dying declaration. In spite of the petitioner having remained in custody since 31.5.2018 and this Court vide its order dated 3.10.2018 having directed the learned trial Court to expedite the trial, there is no progress in the trial and no chance of the trial concluding in the near future. It is lastly submitted that the case of the petitioner stands on a similar footing to that of coaccused Suresh Chaudhary who has been enlarged on bail vide order dated 5.2.2020 (Annexure-6) passed in Cr. Misc. No.85417 of 2019.

Heard learned A.P.P. for the State.

Having heard learned counsel for the parties and on going through the materials on record it transpires that there is



specific allegation against the petitioner of having fired twice on the informant and also of having fired on the son of the informant. The informant died subsequently. The case of the petitioner has been rejected on merits by the earlier order dated 3.10.2018.

In view of the facts and circumstances of the case, the petitioner being the main assailant, the Court is not inclined to enlarge the petitioner on bail and the application is rejected.

Learned trial Court is directed to expedite the trial.

(Partha Sarthy, J)

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