

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27353 of 2021**

Arising Out of PS. Case No.-22 Year-2020 Thana- SONHAN District- Kaimur (Bhabua)

Birendra Bind, S/O Banshi Bind R/O Village- Saitha, P.S.- Sonhan, District-
Kaimur At Bhabua

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Baxi S.R.P. Sinha- Sr. Advocate Mr. Rajani Kant Pandey- Advocate
For the State	:	Ms. Meena Singh- A.P.P.
For the Informant	:	Mr. Anjani Kumar- Sr. Advocate Mr. Manish Kumar- Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 02-12-2021 Heard learned senior counsel for the petitioner,

learned senior counsel for the informant and the learned APP for

the State.

The petitioner seeks bail in connection with Sonhan
(Bhabua) P. S. Case No.22 of 2020, instituted for the offences
under Section 302/ 34 of the Indian Penal Code and Section 27
of the Arms Act.

The learned senior counsel for the petitioner submits
that the petitioner is in custody since 06.06.2020, he is a person
with clean antecedents and charge-sheet has been submitted in
this case.

The learned counsel for the petitioner further submits
that from perusal of the allegation as alleged in the F.I.R., it
would manifest that the informant Ankit Kumar Gupta gave a



written information on 09.01.220 alleging that his brother Sonu Kumar Gupta was in the shop at about 6.00 P.M. on 08.01.2020, when villagers Kartal Bind, Bhishm Bind @ Bhishm Prasad Bind and Chotelal Ram aged about 13 years came at the shop and started playing Ludo. It is further alleged that informant went out of the shop thereafter at about 6.30 P.M. sound of firing came from the shop and also that his brother was screaming, hence the informant went running to his shop and saw the aforesaid three accused persons running from the shop and when he tried to ask as to what happened then they pushed him and fled away. It is next alleged that when the informant went inside the shop, he saw his brother was shot and was lying in a pool of blood and was taken to hospital where he was declared dead.

The learned senior counsel for the petitioner submits that from perusal of the allegation as alleged in the F.I.R., it would manifest that the petitioner is not named in the F.I.R. and his name has come during course of investigation based on the statement of mother and sister of the deceased. The learned senior counsel further submits that this petitioner is the Ex-Mukhiya and as such, he has been falsely implicated in this case because of village rivalry. The learned senior counsel for the



petitioner further relies on an order dated 09.11.2020 in Cr. Misc. No.22717 of 2020 (Kartal Bind) whereby this Hon'ble Court has been pleased to grant bail to one of the named accused in the F.I.R.

The learned senior counsel for the informant submits that the genuineness of the allegation in the F.I.R. would emerge from the fact that the informant has named only three persons whom he had seen while they had come to the shop and were playing Ludo and further that when the informant went to the shop on hearing of sound of firing, he only saw these three persons fleeing away but does not allege whether they were carrying any weapon, it was during the course of investigation that the name of this petitioner transpired. He further submits that the police has prepared the site plan of the place of occurrence as it has come in the case diary and from perusal of which, it would manifest that the house of the informant and his shop are in opposite direction with barren land in between.

The learned senior counsel further submits that the mother of the deceased in her statement recorded under Section 161 of the Cr.P.C. has stated that she had gone to give some sweets to the deceased in the shop while she was going back to her home, she saw this petitioner entering the shop and



thereafter, she saw this petitioner was fleeing with Katta in his hand along with three other co-accused persons.

The learned senior counsel for the informant fairly submits that admittedly, neither the informant nor the mother of the deceased are eye witnesses to the occurrence but the death is a fact and the informant does not allege in the F.I.R. that the other three accused persons were carrying gun or Katta, but it is the mother of the deceased, who has stated that she had seen this petitioner fleeing from the place of occurrence with Katta in his hand. The learned senior counsel submits that since this petitioner is the only one, who is alleged to have been seen with Katta, as such, for the purposes of bail, this fact should be considered that the deceased was a young boy and the mother would not implicate someone falsely despite knowing that he is not the assailant of her child.

The learned senior counsel for the informant further submits that the order on which much reliance has been placed for grant of bail, from perusal of the said order, it would manifest and also from the facts as it has emerged during the course of investigation that he was playing Ludo in the shop and was seen fleeing which was a normal reaction of a person in such situation and further that he is not alleged to be carrying



katta.

Learned A.P.P. opposes the bail application.

Considering the fact that the mother of the deceased in her statement recorded under Section 161 of the Cr.P.C. has specifically alleged that she had seen this petitioner fleeing with Katta and the child aged about 18 years died, further the investigation, even the sister of the deceased has supported the prosecution case alleging that she had also seen this petitioner fleeing with Katta, this Court, for the present, is not inclined to grant bail to the petitioner, as mother would not implicate an accused falsely knowing his is not the assailant.

Accordingly, his prayer for bail stands rejected.

However, the learned Court below is directed to complete the trial within a period of one year from today. The petitioner in the event, if trial is not completed within a period of one year, the petitioner will be at liberty to renew his prayer for bail.

(Satyavrat Verma, J)

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