

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27553 of 2021

Arising Out of PS. Case No.-108 Year-2019 Thana- MATIHANI District- Begusarai

Devendra Singh S/o Dasrath Singh Resident of Village- Ramdiri- Mahaji,
P.S.- Matihani, District- Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shubhesh Pandey, Advocate

For the Opposite Party/s : Mr. Nazir Ansari, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 15-12-2021 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks regular bail in connection with
Matihani P.S. Case No. 108 of 2019 instituted for the offences
under Sections 302 and 34 of the Indian Penal Code read with
Section 27 of the Arms Act.

Learned counsel for the petitioner submits that the
petitioner is in custody since 27.07.2020, is a person with clean
antecedent and charge-sheet has been submitted in the case.

Learned counsel for the petitioner submits that from
bare perusal of the allegation as alleged in the F.I.R. it would
manifest that the informant alleges that on account of land
dispute the occurrence took place, as brother of the informant
had objected when Devendra Singh (petitioner) was ploughing



some extra land apart from his, on which petitioner had threatened, further in the night, the informant heard sound of firing and heard his brother saying that he was shot by Devendra Singh (petitioner) and when the informant reached at the place of occurrence, it is alleged that he saw the petitioner standing with pistol along with Naga Singh who was also carrying pistol in his hand along with two unknown persons. It is further alleged that his brother was lying on ground when Rajesh @ Naga Singh again fired and thereafter the accused persons fled away.

Learned counsel for the petitioner submits that from perusal of the allegation it would manifest that admittedly the occurrence as alleged has taken place on account of land dispute, but then the issue is whether the petitioner who is alleged to have threatened in the morning would have committed the occurrence in the night, the learned counsel further submits that it does not stand to reason that after committing the occurrence the accused would have been present at the place of occurrence and would have waited for the informant to come and then again in the presence of the informant one of the other co-accused Rajesh @ Naga Singh would have fired at the deceased.



Learned counsel for the petitioner submits that from perusal of the case diary it would manifest that the Investigating Officer has described the place of occurrence in detail from where not a single drop of blood was found. Further, no fired cartridge was recovered from the place of occurrence and the learned counsel also submits that from inquest report it would manifest that the dead body was recovered from Bacharsariya Diyara Sonu Bandh when the informant alleges that his brother was sleeping in the house. Learned counsel further submits that admittedly from the F.I.R. it would manifest that informant is not an eye-witness to firing made by this petitioner rather the informant alleges that he heard his brother saying that he was shot by the petitioner.

Learned A.P.P. for the State vehemently opposes the prayer for regular bail of the petitioner and submits that though the informant may not have seen the petitioner firing but then in the F.I.R. it is alleged that it was this petitioner who fired along with Rajesh @ Naga Singh but the learned A.P.P. is not able to meet the submission of learned counsel for the petitioner that in the F.I.R. it is alleged that the deceased was sleeping in his house but the dead body was recovered from Bacharsariya Diyara Sonu Bandh as mentioned in the inquest report.



Considering the fact that the petitioner is in custody since 27.07.2020, charge-sheet has been submitted in the case and the petitioner is a person with clean antecedent, let the petitioner above named be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned FTC – I, Begusarai in connection with Matihani P.S. Case No. 108 of 2019 subject to the condition as laid down under Section 437 (3) Cr.P.C.

(Satyavrat Verma, J)

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