

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23744 of 2020

Arising Out of PS. Case No.-169 Year-2019 Thana- KHUSRUPUR District- Patna

SANTOSH GOPE @ ANDU Son of Rameshwar Gope Resident of Village -
Kalyanpur, P.S. - Fatuha, District - Patna

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ansul, Advocate
For the informant	:	Mr. Sunil Kumar Pathak, Advocate
For the State	:	Mr. Akshay Lal Pandit, A.P.P.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

9 27-01-2021 Heard Mr. Ansul, learned counsel for the petitioner,

Mr. Sunil Kumar Pathak, learned counsel for the informant and

Mr. Akshay Lal Pandit, learned Additional Public Prosecutor

appearing for the State.

Petitioner seeks regular bail in connection with

Khushrupur P.S. Case No. 169 of 2019 registered for the

offences punishable under Sections 147, 148, 149, 386, 387,

504, 506, 302, 120(B) of the Indian Penal Code 1860 and

Section 27 of the Arms Act.

The allegation as per the First Information Report is

that the petitioner along with other co-accused persons arrived

at the factory of the informant and four co-accused persons



named in the First Information Report fired upon the guard of the informant, due to which, he died.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in this case with oblique motive. Learned counsel further submits that from perusal of the First Information Report, it would be evident that there is specific allegation upon four co-accused persons who allegedly fired upon the deceased and the First Information Report is based upon the information received by the informant from an alleged eye witness Bablu Kumar. Learned counsel also submits that in paragraph 6 of the case diary, the statement of said Bablu Kumar has been recorded and from perusal of the same it would be evident that there is no allegation of firing upon the petitioner. Learned counsel next submits that the said eye witness Bablu Kumar whose statement was subsequently recorded under Section 164 Cr. PC has stated that one shot was also fired by the petitioner. Accordingly, submission is that Bablu Kumar who allegedly happens to be the eye witness has changed his statement continuously. Learned counsel next submits that so far as criminal antecedent of the petitioner is concerned, out of six cases against the petitioner, he is not an accused in three cases i.e. Fatuha P.S. Case No. 413 of 2009,



Fatuha P.S. Case No. 266 of 2007 and Fatuha P.S. Case No. 134 of 2009 and in connection with Fatuha P.S. Case No. 219 of 2013 the petitioner has been acquitted. Learned counsel in support of his submission, relies upon supplementary affidavit filed by him. Learned counsel further submits that other co-accused person namely, Sanjat Gope @ Sanjit Gope @ Sanjeet Gope has been granted regular bail by a co-ordinate Bench of this Court vide order dated 3.6.2020 passed in Cr. Misc. 18130 of 2020. Petitioner is said to be in custody since 02.09.2019.

On the other hand, learned counsel for the informant has vehemently opposed the prayer for regular bail and submits that there is clear allegation against the petitioner in the statement of an eye witness Bablu Kumar recorded under Section 164 Cr. P.C. that he also fired upon the deceased.

Having regard to the submissions made by the parties and taking into consideration the materials on record and the fact that petitioner is in custody since 02.09.2019 and similarly situated co-accused person has been granted bail by this Court, I am inclined to grant regular bail to the petitioner.

Accordingly, let the petitioner, above named, be released on regular bail on furnishing bail bonds of Rs.10,000/-



(Ten thousand) with two sureties of the like amount each to the satisfaction of Smt. Susmita Kumari, learned Judicial Magistrate-1st Class, Patna City, in connection with Khushrupur P.S. Case No. 169 of 2019 subject to the following conditions:-

i) that one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how his related with the petitioner. The bailor will also undertake to inform the court if there is any change in the address of the petitioner.

(ii) that the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

It is made clear that at the time of furnishing bail bonds all the parties shall follow the guidelines regarding social distancing.

(Anil Kumar Sinha, J)

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