

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No. 41023 of 2021

Arising Out of PS. Case No.-30 Year-2020 Thana- MATIHANI District- Begusarai

MD. SAKIR @ RAJA Son of Md. Sabir @ Mohammad Sabir Resident of
Village - Saidpur, P.S.- Matihani, District - Begusarai.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Kanhaiya Pd. Singh, Sr. Adv.
Mr. Birendra Kumar Singh, Adv.
For the Opposite Party/s : Mr. Amitesh Kumar

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

2 25-08-2021 The instant case has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.

Heard the learned Senior counsel for the petitioner and Mr. Amitesh Kumar, the learned APP for the State.

The present petition is by way of second attempt at the behest of the petitioner for grant of bail in connection with Matihani PS case no. 30 of 2020 under Section 302 and other allied sections of Indian Penal Code and Section 27 of the Arms Act, inasmuch as the prayer of the petitioner for grant of regular



bail was rejected earlier by this Court vide order dated 24.11.2020, passed in Cr. Misc. no. 25572 of 2020.

The case of the prosecution in brief is that on 30.03.2020 at about 7:00 in the evening, Md. Sabir called the brother of the informant namely Parwej at his house for Panchayati where the petitioner and two other FIR named accused persons and four unknown persons were present from before. It is further alleged that when the brother of the informant had reached at the place of occurrence, the said accused persons including the petitioner herein started assaulting the brother of the informant and then the co-accused person namely Md. Sabir, the petitioner herein and one other co-accused person fired gun shots on the person of the brother of the informant resulting in death of the brother of the informant.

The learned Senior counsel for the petitioner has submitted that the petitioner is languishing in custody since 23.04.2020, hence some sympathy may be shown towards the petitioner.

Per contra, the learned A.P.P. for the State Mr. Amitesh Kumar has vehemently opposed the prayer for bail and has submitted that the earlier order of this Court dated 24.11.2020 is



quite elaborate and explicit and after taking into consideration the materials available on record, this Court had come to a conclusion that *prima facie*, a case is definitely made out against the petitioner for the offences alleged. Moreover, there is direct allegation of firing gun shots on the brother of the informant by the petitioner and the co-accused person namely Md. Sabir resulting in death of the brother of the informant. In fact the police upon investigation has also found the allegations to be true as against the petitioner and the said co-accused person namely Md. Sabir and ample materials are available on record so as to prima facie constitute a case against the petitioner.

I have heard the learned Senior counsel for the petitioner and the learned APP for the State and I find that there is no change in circumstance so as to warrant re-consideration of the prayer of the petitioner for grant of bail, accordingly the present petition stands dismissed, especially considering the grievousness of the offence alleged to have been committed by the petitioner herein.

(Mohit Kumar Shah, J)

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