

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 30677 of 2020

Arising Out of PS Case No.-526 Year-2019 Thana- NATHNAGAR District- Bhagalpur

Pawan Kumar Modi @ Chotu Modi, aged about 19 years, Son of Jogi Modi,
Resident of Mohalla - Anathalay Road, P.S. - Nathnagar, District - Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjay Singh, Advocate
For the State : Mr. Madan Kumar, APP

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 29-01-2021

Heard Mr. Sanjay Singh, learned counsel for the petitioner and Mr. Madan Kumar, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

2. The petitioner apprehends arrest in connection with Bhagalpur Nathnagar PS Case No. 526 of 2019 dated 28.10.2019, instituted under Sections 307/34 of the Indian Penal Code and 27 of the Arms Act, 1959.

3. The petitioner is suspected of being party to the incident in which the son of the informant received gunshot injury on his chest.

4. Learned counsel for the petitioner submitted that as per the FIR itself the petitioner, who is next door neighbour of the informant, had called and taken the son of the informant and they



were gambling and then when the informant heard gunshot she reached and saw her son lying with blood on his chest. It was submitted that in the FIR itself, it is stated that the petitioner might be in a position to disclose who had shot the son of the informant. Learned counsel submitted that the victim has survived. However, learned counsel fairly submitted that the Additional Sessions Judge-XII, Bhagalpur, while rejecting the anticipatory bail application of the petitioner, has indicated that it has come in the investigation that at the behest of the petitioner another unknown accused had fired. Learned counsel submitted that even if such statement is accepted, it clearly shows that the petitioner was not the person who had shot. It was submitted that the petitioner being the next door neighbour and a close friend of the victim, being young in age, it is not expected that he would take such extreme step and further that during investigation itself it has also come that even the son of the informant, who is injured, was member of a gambling gang. Learned counsel submitted that the petitioner has no criminal antecedent.

5. Learned APP submitted that the victim had gone at the call of the petitioner and was shot. However, he could not controvert that the informant herself has mentioned that the



petitioner may be able to tell as to who shot the victim meaning thereby that even she did not suspect that he was the culprit.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Bhagalpur in Bhagalpur Nath Nagar PS Case No. 526 of 2019, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further, (i) that one of the bailors shall be a close relative of the petitioner, (ii) that the petitioner and the bailors shall execute bond with regard to good behaviour of the petitioner, and (iii) that the petitioner shall also give an undertaking to the Court that he shall not indulge in any illegal/criminal activity, act in violation of any law/statutory provisions, tamper with the evidence or influence the witnesses. Any violation of the terms and conditions of the bonds or the undertaking shall lead to cancellation of his bail bonds. The petitioner shall cooperate in the case and be present before the Court on each and every date. Failure to



cooperate or being absent on two consecutive dates, without sufficient cause, shall also lead to cancellation of his bail bonds.

7. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

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