

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33186 of 2020

Arising Out of PS. Case No.-385 Year-2015 Thana- RAJIVNAGAR District- Patna

SUBHAM JYOTI Son of Shri Mahesh Prasad Singh Resident at Jay Prakash
Nagar B - 34 (North of A.G. Colony Park), P.O.- Ashiyana Nagar, Patna -
800025, P.S.- Shastri Nagar.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Akash Deep, Adv.

For the Opposite Party/s : Mr.Binod Kumar, APP

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

13 27-09-2021 Heard learned counsel for the petitioner and learned
A.P.P. for the State through virtual court proceeding.

Learned counsel for the petitioner undertakes to remove
the defects within four weeks of resumption of normal court
proceeding. In the eventuality of non-removal of defects within
undertaken period, the office will place the matter before the
Bench.

The petitioner seeks bail in connection with a case
registered as Rajiv Nagar P.S. Case No.385/2015 for the offence
punishable under Sections 147, 148, 149, 387, 341, 323, 324,
504, 506, 307, 302, 448 and 120(B) of the Indian Penal Code
and section 27 of the Arms Act.

The prosecution case in short is that while the informant



along with three other were getting some work done over the land in question, in the meantime one Niraj Singh came along with his three cousin brothers along with seven friends named in the FIR and other persons. It is alleged that Niraj Singh, Manoj Ray, Sonu Singh and Nakat Gope abruptly fired upon the informant and his men in which his associate Dev Raj Singh and Manjeet sustained serious injury. Further the allegation is that six others named in the FIR had fire arms in their hand. Dev Raj died and the accused persons fled away.

It is submitted by learned counsel for the petitioner that petitioner is quite innocent and has not committed any offence as alleged in the FIR. No offence, in the manner alleged has ever taken place. He has been falsely implicated in this case. He is not named in the FIR nor apprehended on the spot. On the basis of confessional statement of co-accused Nilmani Kumar Singh, petitioner is made accused in this case. Neither prosecution witness has named or made any allegation against the petitioner. It is further submitted that several similarly situated co-accused persons have been granted bail by different co-ordinate Benches of this Court and the even the main assailant of this case has been granted bail by the court below itself. Learned counsel states that petitioner has filed reply to the



counter-affidavit stating therein that petitioner has thirteen criminal antecedents whereas it is mentioned as three criminal antecedents in para-3 of the bail application. The petitioner is languishing in custody since 19.3.2020.

Learned APP for the State opposed the prayer for bail by submitting that petitioner is a habitual offender and have 13 criminal antecedent.

Considering the facts and circumstances of this case, since similarly situated co-accused and the main assailant have been granted bail, the above named petitioner is directed to be enlarged on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned A.C.J.M.III, Patna in connection with Rajiv Nagar P.S. Case No.385/15, subject to the following conditions:

(1) One of the bailors will be own close relative of the petitioner who will give on affidavit genealogy as to how he is relative to petitioner. The bailor will also undertake to inform the court if there is any change in the address of the petitioner.

(2) The bailor shall also state on affidavit that he will inform the court concerned if the petitioner is made accused in any other case of similar nature after his release in the present



case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of bail on ground of misuse.

(3) The petitioner shall remain physically present in the court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reasons, his bail bonds shall be liable to be cancelled by the learned court concerned.

(4) The petitioner shall co-operate with the investigation, if not already concluded and make himself available and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

(5) That after release, the petitioner will have to appear before the police station of his local area in the first week of each month till the disposal of the present case.

(Anjani Kumar Sharan, J)

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