

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37629 of 2020

Arising Out of PS. Case No.-138 Year-2020 Thana- PURNEA SADAR District- Purnia

Rahul Kumar (M), aged about 22 years, son of Sri Ram Yadav, Resident of
Village- Baghmara, Police Station- K. Nagar, District- Purnea

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Raj Kumar, Advocate
For the State : Mr. Md. Arif, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 08-02-2021

Heard Mr. Raj Kumar, learned counsel for the petitioner
and Mr. Md. Arif, learned Additional Public Prosecutor
(hereinafter referred to as the 'APP') for the State.

2. The petitioner is in custody in connection with Sadar
PS Case No. 138 of 2020 dated 07.04.2020, instituted under
Sections 302/120B/34 of the Indian Penal Code and 27 of the
Arms Act, 1959.

3. The allegation against the petitioner, though not
named in the FIR, is of killing the son of the informant.

4. Learned counsel for the petitioner submitted that there
is no witness to the incident and even the informant has stated
that he came to know about his son being shot dead by the
landlord a day prior at night at 10:00 pm but he came to the spot



only next morning and saw the dead body. It was submitted that the petitioner was caught by the local people at a distance from the place where the son of the informant was shot in the present case and from him there is recovery of one country-made pistol and one empty cartridge of 8 mm bore. Learned counsel submitted that at 10:00 pm the informant received a call from the landlord of the son of the informant that he had been shot whereas the petitioner was caught at another place at 11:30 pm. Further, it was submitted that one live and one empty cartridge which was recovered at the place of occurrence where the son of the informant was shot indicated that it was of 7.65 mm bore and the forensic report is that it can be fired only with a weapon of that bore, but from the petitioner the empty cartridge was of 8 mm bore which obviously proves that from the weapon of the petitioner the son of the informant was not killed. It was submitted that though the petitioner may have been caught with country-made pistol but he has no connection in the killing of the son of the informant. Learned counsel submitted that at the behest of the police, the name of the petitioner has falsely been introduced in the present case just to show that the culprit has been caught. It was further submitted that no enmity or reason has been assigned as to why the petitioner would commit such



crime. It was submitted that the petitioner besides the other case in which he was caught and the present case, has no other criminal antecedent and is in custody since 07.04.2020 in the other case, has been remanded in the present case on 19.05.2020.

5. Learned APP submitted that soon after the occurrence the petitioner was caught with firearm by the local people and thus there is strong indication that he may have also been party to the crime. However, in view of the forensic report, copy of which has been brought on record as Annexure-3 to the application, it was not controverted that the empty and live cartridge recovered from the place where the body was found could not have been fired from the weapon recovered from the petitioner.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, let 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, Purnea in Sadar PS Case No. 138 of 2020, subject to the conditions (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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