

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39118 of 2020

Arising Out of PS. Case No.-157 Year-2020 Thana- SHASTRINAGAR District- Patna

DHARMENDRA KUMAR SINGH @ BUNTI son of Sachidanand Singh
Resident of Lahthan, P.S.- Piro, District- Bhojpur

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr.Sandeep Kumar,Advocate Mr.Saket TiwaryAdvocate Mr.Saket Gupta,Advocate Mr.Anuraj Singh,Advocate
For the State	:	Mr.Bhanu Pratap Singh,APP
For the Informant	:	Mr.Ajit Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 23-02-2021 Heard learned counsel for the petitioner, Mr. Bhanu Pratap Singh, learned APP for the State and learned counsel for the informant.

The petitioner in the present case is seeking regular bail in connection with Sashtri Nagar P.S. Case No. 157 of 2020 registered for the offences punishable under Section 307, 302, 120B read with 34 of the Indian Penal Code and Section 27 of the Arms Act.

As per the prosecution story, on 10.03.2020 at about 06:00 P.M. on the occasion of Holi Milan Samaroh the informant and others were celebrating near the nala of Patel Nagar Road No. 5. The co-accused Kush Kumar and this petitioner reached there, they asked the cousin brother of the informant (since deceased) as



to why their names and photographs have not been provided on the Holi Milan banner. On this, they stopped the music system and indulged in quarrel with all the people present causing injury in the right hand of the cousin brother of the informant. Thereafter they fled away.

It is then alleged that while the informant came to Sashtri Nagar Police Station to register a complaint, the co-accused Ashutosh Kumar Pandey reached their and advised the informant not to lodge the case as he was willing to mediate and manage with the co-accused Kush Kumar and this petitioner. It is alleged that he called this petitioner on mobile and made Chandan (brother of the deceased and injured of this case) to talk to him, thereafter a call came on the mobile phone of Ashutosh Kumar Pandey and they were asked to come on the nala where the quarrel had taken place. The informant was informed that Kush Kumar had come there.

It is alleged that on asking of the co-accused Ashutosh Kumar Pandey, the informant and others reached there, as soon as they reached at the place of occurrence, Kush Kumar asked Kanhaiya Kumar Thakur (the cousin of the informant) that he had gone to register a case so let him register the same well, saying this he took out his pistol and fired upon the cousin brother of the informant on his chest who died in course of treatment. Chandan



was also shot at by Kush Kumar and he had suffered firearm injuries on his thigh and hand.

Learned counsel submits that the allegation that the petitioner was there in the first part of the occurrence and had indulged in scuffle with many people in which injury was caused on the right hand of the deceased has not been substantiated from the post mortem report. No injury has been noticed by the doctor on the right hand of the deceased. So far as the second part of the occurrence is concerned, neither the informant nor the injured witness has stated that this petitioner was present at the time of alleged occurrence in which the cousin brother of the informant was killed. The specific allegation of firing and killing is against the co-accused Kush Kumar. No role has been alleged against this petitioner at the time of alleged occurrence and though the petitioner has been brought within the purview of this case taking him as he was also a conspirator, the fact remains that the informant and his deceased brother and injured brother had gone to the place of occurrence on the advice of Ashutosh Kumar Pandey and he was present at the time of alleged occurrence, said Ashutosh Kumar Pandey has been granted regular bail by a learned Co-ordinate Bench of this Court vide order dated 29.09.2020 passed in Cri. Misc. No. 25683 of 2020. It is submitted that the case of the petitioner stands on a better footing.



As regards the criminal antecedents, it is stated that the petitioner has got no criminal antecedent. He has remained in jail in connection with the present case since 11.03.2020, there is no chance of his absconding or tampering with the evidence and he is ready to abide by such terms and conditions which may be imposed upon him to secure his appearance in course of trial.

Mr. Bhanu Pratap Singh, learned APP for the State and learned counsel for the informant have opposed the prayer for regular bail of the petitioner. It is submitted that the petitioner was present at the time of first occurrence and though it is not specifically stated by the witness that he was present at the time of the alleged occurrence in which the firing took place and the cousin brother of the informant was killed, the involvement of the present petitioner cannot be ruled out.

Having regard to the facts and circumstances of the case, considering the materials on the record particularly that there is no statement either of the informant or of the injured saying that this petitioner was present at the time of alleged occurrence when the firing took place or that he had played any active role at the said time in the matter of firing upon the cousin brother of the informant, the injured is himself saying that it was not only his cousin brother was shot dead by Kush Kumar but he has also suffered injury because of the firing done by said Kush Kumar



only, the co-accused Ashutosh Kumar Pandey has already been granted bail by a learned Co-ordinate Bench of this Court, the case of this petitioner at least stands on similar footing, at this stage, there is no submission on behalf of the State that the release of the petitioner at this stage is likely to result in tampering with the evidence or interfering with the course of trial, let the petitioner above-named be released on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate, IV, Patna in connection with Sashtri Nagar P.S. Case No. 157 of 2020 subject to the condition as laid down under Section 437 (3) Cr.P.C. as under :

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.



And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

And further condition that he will cooperate in course of trial by putting his appearance on each and every date fixed in the matter, two consecutive defaults in putting appearance in the court below shall invite action towards cancellation of bail of the petitioner by the learned court below itself.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

