

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.38966 of 2020**

Arising Out of PS. Case No.-348 Year-2019 Thana- MINAPUR District- Muzaffarpur

RAKESH RAI Son of Jata Shankar Rai @ Jai Shankar Rai Resident of
Village - Batrauli, P.S. - Mahindwara, District - Sitamarhi

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Hari Kishore Thakur, Advocate

For the Opposite Party/s : Mr.Md. Fahimuddin, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

4 20-07-2021 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

Petitioner, in the present case, is seeking regular bail in connection with Minapur P.S. Case No. 348/2019 registered for the offence under Section 302/34 of the Indian Penal Code and Section 27 of the Arms Act, pending in the court of learned Chief Judicial Magistrate, Muzaffarpur.

Learned counsel for the petitioner submits that as per the prosecution story the informant had received a telephone call from a mobile number, the caller disclosed his name as Rakesh Kumar who had killed the Munshi of Ram Swarath Rai, allegedly he demanded a sum of Rs. 10 Lakhs and threatened the informant of dire consequences if he will inform it to anybody.



It is further alleged that on the date of occurrence when the informant was standing at Sanichra Asthan Chown, he heard the sound of firing, people started fleeing and the informant fled away towards the shop of Rajendra Sah where he saw this petitioner along with co-accused and other unknown persons on three motorcycles who were having weapons in their hand, they fled away towards village Gangti. The brother of the informant had sustained fire-arm injuries and he was telling that this petitioner and co-accused and their associates have fired at him. The brother of the informant was taken to hospital where he was declared dead.

Learned counsel submits that the petitioner is innocent and has been implicated in this case because of previous enmity. It is submitted that there is no eye witness to the alleged occurrence and the petitioner is being framed in this case because of his criminal antecedent.

Learned counsel for the petitioner submits that in terms of allegations the similarly situated co-accused have been granted bail by the learned coordinate Bench of this Court.

On the other hand, learned A.P.P. for the State has opposed the prayer for regular bail of the petitioner. It is submitted that the name of the petitioner has been disclosed by



the eye witnesses, the informant has alleged that his deceased brother had also disclosed the name of this petitioner and the informant had seen him, petitioner has got 13 cases on his head as stated in paragraph '3' of the present application and all those cases are of serious nature.

Considering the facts and circumstances of the case, the materials in form of statement of the witnesses alleging that this petitioner was seen with the fire-arm and his name was disclosed by the deceased prior to his death, the petitioner has also 13 criminal antecedents and all are of serious nature, this Court is not inclined to release the petitioner on regular bail.

The submission of learned counsel for the petitioner that similarly situated co-accused have been granted bail by learned coordinate Bench of this Court would not impress upon this Court for the reason that the name of the petitioner has not only been disclosed by the deceased, he has also got criminal antecedents of serious nature, therefore the principles of parity cannot be applied in this case.

Prayer for regular bail of the petitioner is, thus, rejected.

Let the trial be expedited.

Considering that the petitioner is in custody for over



one and half year, it is expected that the learned trial court shall proceed with the trial as early as possible and all endeavours be made to conclude the trial preferably within a period of one year from the date of start of normal functioning of the Court.

If the trial still remains unconcluded for no reason attributable to the petitioner, he may renew his prayer for bail.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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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'.

