

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39054 of 2020

Arising Out of PS. Case No.-208 Year-2019 Thana- PURAINI District- Madhepura

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SURAJ BHAGAT@ SURAJ KUMAR Son of Pavan Bhagat R/O Village -
Puraini Bazar, P.S. - Puraini, District - Madhepura

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s	:	Mr. Sandeep Kumar @ Sandeep Sahi, Advocate
	:	Mr. Pawan Kumar, Advocate
For the Opposite Party/s	:	Mr. Parmanand Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 02-03-2021 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner in the present case is seeking regular bail in connection with Puraini P.S. Case No. 208 of 2019 registered for the offences punishable under Sections 302 and 34 of the Indian Penal Code and Section 27 of the Arms Act.

Learned counsel for the petitioner submits that in the present case the F.I.R. has been lodged one day after the alleged occurrence. The informant who is the brother of the deceased has stated that he had seen the alleged occurrence in which three persons came on Apache Motorcycle, they were wearing a helmet and for that reason the informant could not identify them. Allegation is that those three persons had fired upon the brother of the informant who later on succumbed to the injuries and died.



Learned counsel submits that it is evident from the F.I.R. that the informant is an eye witness but he had not identified the accused.

It is his submission that two months after the alleged occurrence police recorded the statement of the witnesses in paragraph '27' and '28' of the case diary. These witnesses have stated that when they were in the market they had seen the occurrence and these witnesses have specifically named this petitioner and other two accused who had come on the motorcycle and repeatedly fired upon the deceased. Learned counsel submits that these witnesses have been set up after two months of the alleged occurrence and hence their statements are not having much evidentiary value.

On the other hand learned A.P.P. for the State has opposed the prayer for regular bail of the petitioner. He has taken this Court through the statements of the witnesses in paragraph '27' and '28' of the case diary who are said to be the eye witness and then the post-mortem report of the deceased showing multiple fire arm injuries on the body of the deceased suggesting that he was shot dead in the manner alleged.

It is further pointed out that this petitioner has got six criminal antecedents and he has been identified as a member of the gang of betting in the area who is involved in making rangdaari



from the businessman and threatening them if they do not pay the amount demanded.

It is submitted that though the petitioner has been granted bail in the earlier five cases out of which in at least three cases, he was granted bail in the year 2017, the petitioner is getting involved in more and more cases of this nature.

Having regard to the facts and circumstances of the case, since this Court finds that there are two eye witnesses in paragraph '27' and '28' of the case diary and this is not the stage to consider the evidentiary value of the statements of the eye witnesses, the criminal antecedents and other materials which have also been noticed by the learned court below in the impugned order are such that this Court is not inclined to grant privilege of regular bail to the petitioner. His prayer for regular bail is thus refused. The application is dismissed.

Let the trial be expedited.

(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'.

