

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41128 of 2020

Arising Out of PS. Case No.-169 Year-2019 Thana- KHUSRUPUR District- Patna

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CHOTU YADAV S/o Tika Gope @ Tika Ray R/o Village- Kalyanpur, P.S.-
Fatuha, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	M/s Rama Kant Sharma, Sr. Advocate Pramod Kumar, Advocate
For the State	:	Mr. Matloob Rab, APP
For the Informant	:	Mr. Sunil Kumar Pathak, Advocate

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

5 26-07-2021 Heard learned senior counsel appearing for the petitioner, learned A.P.P. for the State and learned counsel for the informant through video conferencing.

The petitioner has filed the instant application for grant of regular bail in connection with Khushrupur P.S. Case no. 169 of 2019 registered under sections 302, 386, 387 and other sections of the Indian Penal Code.

As per allegations in the F.I.R., it is stated by the informant that he received information on mobile from an eye witness Bablu Kumar about the occurrence having taken place wherein the accused persons including the petitioner herein armed with sophisticated weapons came in their Fortuner



vehicle, abused the guard and started to fire. Firing was done by the accused persons and on the firing by the petitioner, the same hit Awadhesh Yadav in his legs. Thereafter, it is stated that the accused persons went away stating that the amount of rangdari will not be reduced.

It is submitted by learned senior counsel appearing for the petitioner that the petitioner has been falsely implicated in this case. So far as the informant is concerned, admittedly, he is not an eye witness to the occurrence. His source of information is the information received by him on mobile phone from co-accused Bablu Kumar. The said Bablu Kumar in his statement under section 164 Cr.P.C. has stated about the accused persons including one Chhotu having fired but at the same time mentioned about another Chhotu standing as a watch at the gate. Further the allegations of firing being specifically on Tuntun and Pramod Paswan as also Andua and Chhotua, the same is not supported by the postmortem report wherein taking into account the communicating injuries, there would be only two gunshot injuries while the allegations of firing are on four accused persons. The allegations are general and omnibus in nature and co-accused Santosh Gope as also Sanjat Gope have been enlarged on bail vide orders contained in Annexures-2 and 3.



The case of the petitioner stands on a similar footing to them.
The petitioner is in custody since 30.8.2019.

The application for bail is opposed by learned A.P.P. for the State and learned counsel for the informant. It is submitted by learned counsel for the informant that not only the petitioner is named in the F.I.R. but there is direct allegation against him of having fired hitting Awadhesh Yadav in his leg. The said allegation is corroborated from the postmortem report. It is submitted that there being specific allegation against the petitioner, his case does not stand on a similar footing to the other co-accused and his application for bail be rejected.

Having heard learned counsel for the parties and taking into consideration the allegations against the petitioner in the F.I.R. together with the contents of the postmortem report, the Court is not inclined to enlarge the petitioner on bail and the application is rejected.

The learned trial Court is directed to expedite the trial.

(Partha Sarthy, J)

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