

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3928 of 2021

Arising Out of PS. Case No.-85 Year-2020 Thana- BIRPUR District- Supaul

MANISH KUMAR @ MANISH YADAV, SON OF RAGHU YADAV @
RAGHUNATH YADAV, R/o village- Jago Araj Koshikapur, Ward No.- 12,
P.S.- Birpur, District- Supaul.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Y.C. Verma, Sr. Adv.
	:	Mr.Krishna Chandra, Adv.
For the Opposite Party/s	:	Mr.Chandra Bhushan Pd., APP
For the Informant	:	Mr.Sanjeev Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
C.A.V. ORDER

7 02-09-2021

Heard the parties through virtual Court proceedings.

The petitioner seeks bail in a case registered for the offence punishable under Sections 341, 342, 307, 302, 120(B), 379 & 34 of the Indian Penal Code and Section 27 of the Arms Act.

The prosecution case, in brief, is that on 07.05.2020 at about 8.30 pm the husband of the informant Ganesh Yadav and nephew (Bhanja) namely Pradip Kumar Yadav (deceased) were returning from Godown. As soon as they reached near the flood area, the accused Jagdish Korogiya and others variously armed with rod, country made pistol surrounded them. The accused Jagdish Korogiya was also carrying his licensee Rifle and pistol. It is further alleged that at the instigation of Sushila



Devi, her husband, accused Jagadish Korogiya had his pistol and Rifle, opened indiscriminate firing with country made pistol on Ganesh Pd. Yadav due to which he fell down on earth. It is further alleged that Kundan Kumar assaulted with bamboo upon her husband's nephew due to which he fell down. Thereafter, petitioner fired with country made pistol on his chest due to which her nephew died on the spot. Thereafter, all accused persons fled away and left one motorcycle. The nearby people brought her husband and nephew to the hospital where her nephew was declared brought dead and her husband was referred to Darbhanga and then Patna where his treatment is going on. The informant further alleged that the accused persons took away cash of Rs.50,000/- from his husband's pocket and a gold chain worth of Rs.54,000/-

Learned senior counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case due to local village politics. He submits that the occurrence took place on 07.05.2020 and FIR was lodged on 09.05.2020 and there is no explanation of such delay. As per FIR, it is evident that the informant is not the eye witness of alleged occurrence as herself admitted that after hearing about the incidence, she got unconscious and when she regained her



consciousness, submitted her written application. He submits that the informant has not disclosed that from whom she came to know about the entire incident and on what basis she disclosed the name of all together 13 accused persons including the petitioner who said to have committed the alleged occurrence. During the course of investigation, the police found that soon after the alleged occurrence at about 9.00 pm, Ganesh Prasad Yadav (injured) made a call to his staff Chandra Gupta Paswan and informed that he has been shot by Gun near Tila Bhawan by criminals. Thereafter, Chandra Gupta Paswan alongwith Srilal Paswan and others reached to the place of occurrence within 10 minutes where Pradeep Yadav was found dead and Ganesh Yadav was in injured condition. Both the persons were taken to Birpur Sub Divisional Hospital with the help of them. The inquest report is on 07.05.2020 at 10.40 pm and FIR lodged on 09.05.2020 on the written statement of the informant.

Learned senior counsel further submits that the police recorded the statement of the important witnesses who initially reached at place of occurrence, are Chandra Gupta Paswan, Srilal Yadav and driver of Pickup namely, Ram Bilash Paswan and all of them deposed that Ganesh Yadav did not disclose the



name of any person involved in commission of crime at the place of occurrence. As a matter of fact, Ganesh Yadav was PACS Chairman since two consecutive election i.e year, 2009 and 2014 and in the PACS Election, 2019, the petitioner had contested the election and defeated Ganesh Yadav due to which he had grudged against the petitioner. The wife of Ganesh Yadav, namely Parita Devi had also contested the election for the post of Mukhiya of Banailipatti Panchayat Birpur in the year 2016 and lost the said election with the accused Jagdish Koragiya. The petitioner is in jail custody since 01.07.2020. The petitioner has no criminal antecedent which is mentioned in para 3 of the bail petition.

Learned counsel for the informant as well as State vehemently opposed the prayer for bail petition and submits that co-accused namely, Kundan Kumar assaulted with bamboo upon her husband's nephew (Pradeep Yadav) due to which he fell down. Thereafter, petitioner fired with country made pistol on his chest due to which her nephew died on the spot. That fact is corroborated with the postmortem of the deceased. He further submits that during course of investigation, the police had recorded statement of injured person, namely, Ganesh Yadav, husband of the petitioner. He supported the prosecution case



which is mentioned in para 141 of the case diary.

I perused the record including the case diary, petitioner is the main assailant, it is stated by the injured person, who is eye witness of the present case, which is mentioned in para 141 of the case diary. But the injured person (husband) not disclosed the name of any accused person, when the staff of the injured person and other persons reached on spot (place of occurrence).

Considering the argument of the parties, I am not inclined to enlarge the petitioner on bail. Accordingly, the prayer for bail of the petitioner is rejected in connection with Birpur P.S. Case No. 85/2020 from the Court of learned Additional Chief Judicial Magistrate, Birpur (Supaul).

Accordingly, this application is dismissed.

However, the petitioner is at liberty to renew his prayer for bail after framing of charge.

(Anjani Kumar Sharan, J)

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