

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5357 of 2022

Arising Out of PS. Case No.-392 Year-2018 Thana- MAKHDUMPUR District- Jehanabad

Sujit Yadav @ Tanak Mithu @ Mantu Son of Mithilesh Yadav Resident of
Village - Mahewa, P.s.- Makhdumpur, Distt.- Jehanabad.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bachan Jee Ojha, Advocate.

For the Opposite Party/s : Mr. Satendra Narayan Singh, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 11-10-2022 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

Heard Mr. Bachan Jee Ojha, learned counsel for the petitioner and Mr. Satendra Narayan Singh, learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Makhdumpur P.S. Case No. 392 of 2018, for the offences punishable under Sections 341, 307, 302/34 of the Indian Penal Code and Section 27 of the Arms Act.

The prosecution case is based on the fardbayan of the informant, Deepak Kumar, alleging therein that on 22.10.2018, the informant along with his relatives Awnish Kumar Gautam @ Sonu Sharma went to Kurtha Bazar and in course of returning,



when they proceeded to village Mirabigha, in the meantime two persons intercepted and fired upon them, due to which the informant and Awnish Kumar Gautam @ Sonu Sharma sustained injuries, however, in course of treatment Awnish Kumar Gautam @ Sonu Sharma succumbed to the injuries.

It is submitted by the learned counsel appearing on behalf of the petitioner that the petitioner is neither named in FIR nor even a suspicion has been raised by any witnesses, however, later on during the course of investigation some of the witnesses have disclosed that the petitioner was also found moving near the place of occurrence and as such his named has also been implicated in this case. He further submitted that during the course of investigation the informant, Deepak Kumar has also been made accused in this case, as he has been found to be one of the conspirator in causing the death of the deceased, however, he has been enlarged on bail by learned co-ordinate Bench of this court in Cr. Misc. No. 16601 of 2019, vide order dated 29.07.2019. He last submitted that only on account of the past criminal antecedent of the petitioner his name has been implicated in this case without any material, though he is in custody since 31.08.2021.

On the other hand learned APP for the State



vehemently opposes the bail application and submitted that petitioner is found involved in eight other criminal cases and the witnesses have found that the petitioner was also present at the place of occurrence.

Regard being had to the submissions made on behalf of the parties and considering the materials available on record which shows that save and except suspicion, there is no other material, apart from the period of incarceration and moreover, the antecedent of a person cannot be the sole ground to keep him behind the bar for an indefinite period, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional District & Sessions Judge-V, Jehanabad in connection with Makhdumpur P.S. Case No. 392 of 2018, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or



intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) 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 immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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