

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8145 of 2022

Arising Out of PS. Case No.-344 Year-2018 Thana- FATEHPUR District- Gaya

RAHUL KUMAR SON OF ANUJ SINGH RESIDENT OF VILLAGE-
PAKARI, POLICE STATION- FATEHPUR, DISTRICT- GAYA

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Pushkar Narayan Shahi, Sr. Advocate. Mr. Manish Kumar No2, Advocate.
For the State	:	Mr. Nirmal Kumar Sinha, APP.
For the Informant	:	Mr. Shailesh Kumar, Advocate.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL ORDER

3 02-03-2022 Heard the parties.

Heard learned counsel appearing on behalf of the
petitioner and learned A.P.P. for the State.

Let the defect(s), if any, be removed within two
weeks of the complete start of the physical Court in normal
course.

The petitioner seeks regular bail in connection with
Fatehpur P.S. Case No. 344 of 2018 for the offence punishable
under Sections 302/120B/34 of the Indian Penal Code and
Section 27 of the Arms Act.

The allegation is of murder of the son of the informant



by the F.I.R. named accused persons including the petitioner.

Mr. Pushkar Narayan Shahi, senior counsel appearing on behalf of the petitioner, at the outset, submits that the allegation against the petitioner and other accused persons named in the F.I.R. is based on the disclosure made by one Bhanu with whom the son of the informant Mohit Kumar (deceased) had gone to meet the accused persons named in the F.I.R. including the present petitioner. At about 08:30 PM, the said Bhanu who had accompanied the deceased on the motorcycle of one Bharti informed the informant about the death of his son Mohit Kumar. On the basis of the disclosure made by said Bhanu, the petitioner along with other accused persons named in the F.I.R. are said to have resorted to indiscriminate firing on the son of the informant Mohit Kumar, as a result of which, he died on the spot. Learned senior counsel further submits that the said Bhanu claims himself to be the eye witness of the entire manner of occurrence in which this petitioner had assaulted, but the said Bhanu has neither been made witness to the seizure list nor to the inquest report and he has played behind the back. The F.I.R. was lodged on 05.11.2018, but the statement of said Bhanu was recorded after a delay of five days i.e. on 10.11.2018 wherein he supported the allegation made in the F.I.R. He further submits that even the



motive behind the incidence is not supported as what has been stated in the F.I.R. that the incidence took place because the petitioner had demanded XUV from the deceased and that has not been corroborated by said Bhanu in his statement made on 10.11.2018 as it would appear in Para-43 of the case diary. His further submission is that there is no eye witness of the occurrence. The statement of Bhanu has not been corroborated by the investigating officer by the circumstantial evidence gathered in course of investigation. The entire prosecution case fails for want of any witness. Present petitioner has been implicated in this case merely on suspicion which has no evidentiary value in the eye of law. Charge sheet has been submitted against the petitioner. Learned senior counsel admits that the petitioner has been made accused in about 9 cases, however those cases are not of serious nature. The petitioner is in custody since 03.01.2021.

Mr. Shailesh Kumar, learned counsel appearing on behalf of the informant submits that Bhanu is the eye witness of the occurrence and immediately after commission of murder of the son of the informant by the accused persons by resorting to indiscriminate firing upon the deceased, said Bhanu informed the informant (father of the deceased). The said fact is also corroborated by one Tinku in Para-30 of the case diary, who had



seen Bhanu with the deceased at about 12 PM on the motorcycle of Bharti.

Having heard the rival submissions of the parties, without going into the merits of the case, the trial court is directed to conclude the trial expeditiously well within a period of nine months.

Superintendent of Police, Gaya is directed to produce all the prosecution witnesses on the date fixed by the trial court without fail.

If no substantial progress takes place in the trial within the aforesaid period, the petitioner, if so advised, may renew his prayer for bail.

Let a copy of the order be communicated to SP, Gaya.

Accordingly, this application stands disposed of.

(Purnendu Singh, J)

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