

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9209 of 2022

Arising Out of PS. Case No.-678 Year-2021 Thana- ARA NAGAR District- Bhojpur

Chhotu Yadav, S/o Late Jawahar Yadav, R/o Village- Ibrahim Nagar, P.S.- Ara
Town, District- Bhojpur at Ara. ... Petitioner/s

Versus

The State of Bihar Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sarveshwar Tiwary, Advocate
For the Opposite Party/s : Mrs. Shaheen Begum, APP
For the Informant : Mr. Madanjeet Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 20-09-2022 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. Sarveshwar Tiwary, learned counsel for the petitioner, Mr. Madanjeet Kumar, learned counsel for the informant and learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Ara (Town) P.S. Case No. 678 of 2021 registered for the offences punishable under Sections 302/34 and 120B of the Indian Penal Code and Section 27 of the Arms Act.

The prosecution case is based on a written report filed by the informant alleging therein that on 22.09.2021, at about 6.00 P.M., while the informant along with his friends were present in front of the gate of Sadar Hospital, Ara where his



father is used to ply Ambulance and he was standing nearby his Ambulance, in the meantime, three persons, namely, Doman Yadav, Chetan and Dabal Yadav came on an Apache Motorcycle. Soon thereafter three other persons, namely, Bhulchul @ Buchul, Ravi Ranjan Yadav and one unknown person came from a Pulsar motorcycle and thereafter Chotu Yadav, Deepu Yadav and Mohit Kumar came on a Splendor Motorcycle. All the three persons, who came on Apache motorcycle wiped out their pistols and started firing. The other six persons, who also came on Pulsar and Splendor motorcycles started making indiscriminate firing in order to terrorize. The accused Doman Yadav, Dabal Yadav and Chetan surrounded the father of the informant and fired upon him, causing bullet injury over his head, face, back and stomach. The informant and his friend taken him to hospital, where he was declared dead. It is also alleged that the informant came to know that on 22.06.2021, the planning of occurrence was made at the house of Kunal Yadav in presence of all the accused persons. The conspirator of the present crime is said to be Dhanjee Yadav, Manjee Yadav and Dharmendra Yadav.

Learned counsel for the petitioner submits that from the F.I.R., it would be evident that specific allegation of firing



has been levelled against co-accused Doman Yadav, Dabal Yadav and Chetan. So far the petitioner is concerned, the only allegation levelled against him is to make indiscriminate firing in order to terrorize and no allegation has been levelled that the petitioner was one of the assailant. It is needless to say that the informant and his friend claiming themselves to be an eye witness to the alleged occurrence and even as per their version, no allegation of assault has been levelled against him. It is also submitted that the alleged occurrence took place on 22.09.2021 at about 6.00 P.M. and thereafter the inquest report was prepared and the post-mortem was done on the same day in presence of the police officials, but no F.I.R. has been instituted and surprisingly, the same has been instituted on 23.09.2021 at about 4.00 P.M., which suggests that the F.I.R. has been instituted after due deliberation and it is piece of after thought. He next submits that the occurrence took place in front of the Sadar Hospital, Ara, but there is no eye witness to the alleged occurrence. He further submits that even during the course of investigation, no other materials have come suggesting the complicity of the petitioner, inasmuch, as no incriminating article or any weapon has been recovered from his person or possession. While concluding his submission, he lastly submits that the petitioner



is in custody since 04.10.2021 and till date even the charges have not been framed.

On the other hand learned counsel for the informant vehemently opposes the bail application and submits that the petitioner and other co-accused persons in furtherance of common intention fired upon the father of the informant resulting into his death and the witnesses have supported the prosecution case and his presence at the place of occurrence has also been supported by them. He also submits that the petitioner is named in two other criminal cases.

Learned counsel for the State also opposes the bail application.

Regard being had to the submissions made on behalf of the parties and considering the fact that no specific allegation of firing has been levelled against the petitioner that he fired upon the father of the informant, apart from the period of incarceration and the delay in lodging of the F.I.R., 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 Chief Judicial Magistrate, Bhojpur at Ara in connection with Ara (Town) P.S. Case No. 678 of 2021, 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 physically 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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