

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8903 of 2022

Arising Out of PS. Case No.-671 Year-2020 Thana- DANAPUR District- Patna

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Suraj Kumar @ Saroj Kumar Son of Nageshwar Roy Resident of Village -
Imli Chak, P.s.- Danapur, Distt.- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Dhananjay Kumar Tiwary, Advocate

For the Opposite Party/s : Mr.Lalan Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 26-11-2022 Heard learned counsel appearing on behalf of the

petitioner and learned counsel appearing on behalf of the State.

Let the defect(s), if any, be removed within a period

of four weeks from today.

The petitioner seeks bail in connection with Danapur
P.S. Case No. 671 of 2020 registered for the offence under
Section 302 and 34 of the Indian Penal Code and under Section
27 off Arms Act.

The accused/petitioner is not named in the F.I.R. and

is in custody since 06.12.2020.

The allegation against the petitioner is to commit



murder of son of the informant, along with other co-accused persons, due to previous enmity.

Learned counsel appearing on behalf of the petitioner submitted that informant is not the eye witness of the occurrence, where entire allegation is based upon suspicion, as the uncle of the deceased found this petitioner as one of the co-accused who called deceased for a short distance and thereafter firing was made upon him. It is submitted that allegation of firing is not specific against this petitioner and even the CCTV footage not disclosing the presence of the witness/uncle of the deceased at the place of occurrence. It is further submitted that mandatory certificate in terms of Section 65 of the Indian Evidence Act was not procured for electronic evidence as collected from CCTV footage, creating a serious doubt over entire allegations. It is also submitted that similarly situated co-accused person has already granted bail by this Court through Cr. Misc. No. 61383 of 2021 vide order dated 29.08.2022. While concluding the argument, it is submitted that investigation of this case is complete, for which, charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP, while opposing the prayer of bail, fairly



conceded that informant is not the eye witness of the occurrence and charge-sheet has been submitted without obtaining the mandatory certificate in terms of Section 65 of the Indian Evidence Act.

In view of the facts and circumstances as mentioned above, as allegation is based upon suspicion, where informant is not the eye witness of the occurrence coupled with the fact that charge-sheet has already been submitted without obtaining the mandatory certificate in terms of Section 65 of the Indian Evidence Act as required for electronic evidence, let the petitioner, above named, is directed to be released on bail in connection with Danapur P.S. Case No. 671 of 2020 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-III, Danapur, Patna/concerned Court, subject to the following conditions:

“(i) Accused/Petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner duly supported by the documents.



(ii) That one of the bailors shall
be deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

R.S.Sen/-

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