

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15357 of 2022

Arising Out of PS. Case No.-60 Year-2020 Thana- BIBHUTIPUR District- Samastipur

Murari Kumar @ Murari Singh S/o Late Chandra Uday Singh R/o village-
Sakhmohan, P.S.- Bibhutipur, Distt.- Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sabal Kumar Jha, Advocate

For the Opposite Party/s : Ms. Asha Devi, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 25-08-2022 Heard Mr. Sabal Kumar Jha, learned counsel
appearing on behalf of the petitioner and Ms. Asha Devi,
learned A.P.P. for the State.

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

The petitioner seeks regular bail in connection with
S.T. No. 03 of 2022, arising out of Bibhutipur P.S. Case No. 60
of 2020, for the offence punishable under Sections 302/34 of the
Indian Penal Code and Section 27 of the Arms Act.

The prosecution case, in brief, is that four persons
named in the F.I.R. assaulted the father of the informant in his
presence, which was objected by him then all the accused
persons fired upon father of the informant, who succumbed to
the injuries on the spot.

Learned counsel appearing on behalf of the petitioner



submits that though the petitioner is named in the F.I.R. but no specific overt act has been alleged against him. The allegation is general and omnibus. The material collected in course of investigation shows that informant is not the eye-witness of the incident. The incident had occurred in the night, which creates doubt how informant had identified the petitioner. He further submits that occurrence took place on 10.03.2020 and F.I.R. was lodged after much delay on 13.03.2020, delay has not been explained by the prosecution, which creates doubt on the version of the prosecution. The petitioner is said to be implicated in one case in which he has already been released on bail. The petitioner is in custody since 28.08.2021. He further submits that similarly situated co-accused Gopal Singh has already been enlarged on bail by a co-ordinate Bench of this Court vide order dated 13.09.2021 passed in Criminal Miscellaneous No. 13216 of 2021.

Mr. Asha Dvei, learned A.P.P. for the State vehemently opposed the prayer for grant of bail to the petitioner and submitted that the allegation made in the F.I.R. is supported by independent witnesses. One injury has been found on the body of the deceased supported by postmortem report, which confirms the same.



Having heard the rival submissions of the parties, this court finds that the petitioner is not named in the F.I.R. The allegation is of firing on the father of the informant by four named accused persons, on the other hand one firearm injury has been found, which is supported by the postmortem report which reveals that the death has been caused by firearm injury. However, in absence of any specific overt act of firing to have been alleged against the petitioner. Prima facie the petitioner has made out a case to be released on bail. The First Information Report has been lodged after much delay.

The petitioner, above named, is directed to be enlarged on bail on furnishing bail bond of Rs. 25000/- (Rs. Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned Addl. Sessions Judge-1st Rosera at Samastipur in connection with S.T. No. 3 of 2022, arising out of Bibhutipur P.S. Case No. 60 of 2020, subject to the following conditions:-

(1) Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

(2) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.



(3) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(4) If the petitioner is found involved in similar nature of offence, after his release on bail, the trial Court shall take steps to cancel his bail bonds.

(Purnendu Singh, J)

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