

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25420 of 2021

Arising Out of PS. Case No.-152 Year-2010 Thana- RAJEPUR District- East Champaran

Laxman Prasad, S/O Late Mahangu Prasad, R/o village- Mohammadpur,
Majhauriya, P.S.- Rejepur, District- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vijay Shankar Shrivastava, Advocate
For the Opposite Party/s : Mr. Sunil Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE A. M. BADAR
ORAL ORDER

13 17-05-2022 The applicant/accused in Crime No. 152 of 2010 registered with Rajepur Police Station for the offences punishable under Section 302 r/w Section 34 of the Indian Penal Code as well as Section 27 of the Arms Act, by this application is seeking his release on bail during pendency of the trial.

Heard the learned counsel appearing for the applicant/accused. He argued that the incident allegedly took place on 23.12.2010 and the FIR was lodged on 24.12.2010 by Banwari Sahni who happens to be father of deceased Chandrika Sahani. It is further argued that the charge sheet was filed on 10.04.2021 and the applicant was arrested on 14.01.2021. It is categorically stated that in between the registration of the crime and arrest of the applicant, the applicant was not absconding and the police never attempted



to apprehend him. The learned counsel for the applicant further argued that so called eye witness Mukesh Sahni was in fact a witness to the FIR lodged by Banwari Sahni and at that time, he never alleged that the applicant had fired a bullet at deceased Chandrika Sahani.

The learned Additional Public Prosecutor opposed the application by relying on the counter affidavit filed by the State-respondent argued that there are witnesses who have seen the seen the incident.

I have considered the submissions so advanced and also perused the case diary.

First informant Banwari Sahni has stated that his son Chandrika Sahani (since deceased) along with Naresh Sahni had gone to village Meghnapur and while undertaking return journey, they took halt at Mohamadpur Bazar for taking breakfast. There five unknown assailants fired bullet at Chandrika Sahani. Mishri Lal Sahni and Mukesh Kumar Sahni are witnesses to the FIR lodged on 24.12.2010. They have not stated at that point that the applicant had role in killing deceased Chandrika Sahani. Naresh Kumar Sahni who is nephew of the deceased Chandrika Sahani and who was accompanying Chandrika Sahani has stated that five unknown



assailants killed Chandrika Sahani by firing bullets.

For the first time or or about 10.02.2011, Mukesh Sahni who is a witness to the FIR made a statement to police that the present applicant had also fired two bullets at Chandrika Sahani. Similar is the statement of his mother Bedehi Devi. They both stated that they had gone to Mohamadpur Bazar for purchasing vegetables. Rita Devi who happens to be widow of deceased Chandrika Sahani claimed to be an eye witness but has not stated as to how she was present at Mohamadpur where the incident took place. Mishri Lal who is the witness to the FIR has stated that he heard about the incident of firing bullets at Chandrika Sahani. Prem Mahto who is the eye witness to the subject crime has stated that unknown assailants fired bullets and thereby killed the deceased. It is not pointed out that the applicant was subjected to the Test Identification Parade and he was identified by any of the witnesses as assailant.

Considering this nature of the evidence against the applicant/accused, his further pretrial detention is not warranted. Therefore, the order :-

- i. The application is allowed.
- ii. The applicant/accused in Crime No. 152 of



2010 registered with Rajepur Police Station for the offences punishable under Sections 302 r/w Section 34 of the Indian Penal Code as well as Section 27 of the Arms Act be released on bail on executing P.R. bond of Rs.10,000/- (Rupees Ten Thousand) on furnishing surety of the like amount to the satisfaction of the trial court with the following conditions: -

(I) The applicant/accused should not extend any threat, promise of inducement to the persons acquainted with the facts of the accusation against him so as to dissuade him from disclosing such facts to the Court or to any police officer.

(II) The applicant/accused should cooperate the trial court in expeditious disposal of the trial against him.

(III) The applicant/accused should not contact the members of the prosecuting party as well as witnesses in this case in any manner till conclusion of the trial.

(IV) The applicant should not repeat commission of similar offence in future and if he is found to be involved in commission of similar offence, the State is at liberty to apply for cancellation of bail granted to the applicant in the instant case.

The applicant to remove all office objections forthwith and the Registry to issue the certified copy of this



order only after removal of office objections by the
appellant/accused.

Bhardwaj/-

(A. M. Badar, J)

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