

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17140 of 2022

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

Dabal Yadav, S/o Birendra Yadav @ Birendra Kumar Singh, R/o Village-
Anand Nagar (Sarkari Bandh), Ara, P.S. - Ara Town, Dist. Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sarveshwar Tiwary, Advocate
For the Opposite Party/s	:	Mr. Narendra Kumar Singh, 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 Yadav and Dabal Yadav (petitioner) 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 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 in fact the informant is not the eye witness to the alleged occurrence, had the informant was present at the place of occurrence, he would have certainly put his signature on the inquest report as well as post-mortem report, but there is no signature of the informant in any of the paper, which suggests that he was not even present at the place of occurrence and he came later on and thereafter the F.I.R. has been instituted after due deliberation on the next day. He lastly submits that the petitioner is in custody since 04.10.2021 and after investigation of the crime, charge-sheet has been submitted.

On the other hand learned APP for the State vehemently opposes the bail application and submits specific allegation has been levelled against the petitioner that he fired upon the father of the informant causing his death, which fact has also been corroborated by the post-mortem report,



inasmuch, as 11 firearm injuries have been found over the body of the deceased. He further submits that the petitioner is also named in other two criminal cases.

Regard being had to the submissions made on behalf of the parties and considering the specific nature of accusation and severity of the offence, coupled with the criminal antecedent of the petitioner, this Court is not persuaded to enlarge the petitioner on bail.

Accordingly, the bail application stands dismissed.

(Harish Kumar, J)

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