

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28172 of 2021

Arising Out of PS. Case No.-88 Year-2020 Thana- SHRIKRISHNAPURI District- Patna

Golu Kumar @ Dholki, S/o Ashok Prasad, Resident of Navratanpur P.S. -
Kankarbagh, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ansul, Advocate
		Mrs. Usha Kumari Singh, Advocate
For the Opposite Party/s	:	Mr. Satyendra Nrayan Singh, APP
For the Informant	:	Mr. Aaruni Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

12 25-08-2022 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. Ansul, learned counsel for the petitioner, Mr. Aaruni Singh, learned counsel for the informant and learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with S. K. Puri P.S. Case No. 88 of 2020 registered for the offences punishable under Sections 302/120(B) of the Indian Penal Code and Section 27 of the Arms Act.

The prosecution case is based upon the fardbeyan of the informant alleging therein that on 08.03.2020 at 10.50 ‘o’



clock when the father of the informant reached at the gate of his house, in the meantime, two persons came on a motorcycle, the rider was wearing helmet and the pillion rider was identified as Suraj Kumar and thereafter co-accused Suraj Kumar wiped out his pistol and started indiscriminate firing upon his father, who sustained two bullet injuries in his chest and succumbed to the injuries in the way to the hospital.

Learned counsel appearing on behalf of the petitioner submits that the petitioner is not named in the F.I.R., however, during the course of investigation co-accused Suraj Rai, who is said to be the sole assailant, was apprehended by the police and in his confessional statement, the name of the petitioner has surfaced, as the rider of the motorcycle. It is further submitted that admittedly there is a land dispute between the father of co-accused Suraj Rai with the deceased and save and except the petitioner being the driver of the motorcycle on which the assailant was sitting, there is no specific allegation of any overt act. It is next submitted that other co-accused persons, namely, Guddu Rai @ Gudda Rai and Sonu Kumar @ Sonu Rai, against whom there is allegation of conspiracy in killing the father of the informant, have already been granted bail by the learned coordinate Benches of this Court in Cr. Misc. No. 24907 of



2020 vide order dated 23.11.2020 and in Cr. Misc. No. 30454 of 2020 vide order dated 23.11.2020 respectively. It is next submitted that during the course of investigation, the two of the constables, whose statements have been recorded in paragraph nos. 31 and 32 of the supplementary case diary, have allegedly stated that the petitioner was also identified by the informant, when the video footage of CCTV Camera was shown to him, however, it is submitted that their statements have been recorded after six months of the alleged occurrence and moreover it is submitted that had the informant or witnesses identified the petitioner, at the time of the institution of the F.I.R. itself, they would have certainly disclosed the name of the petitioner just after the occurrence, but this facts have come only after when co-accused Suraj Kumar was apprehended and the police recorded his confession and he disclosed the name of the petitioner. The statement of the constables are recorded after six months. It is next submitted that prior to the institution of this case, the petitioner had fair antecedent and this petitioner has been remanded in the present case from Kankarbagh P.S. case no.457 of 2020 on 04.11.2020 and since then he is in custody.

On the other hand, learned counsel for the informant vehemently opposes the bail application and submits that it is



the petitioner, who played active role in causing the broad daylight murder of the father of the informant and it has come during the course of investigation that it is the petitioner, who supplied the motorcycle and pistol in order to facilitate the crime. It is next submitted that the petitioner was identified by the constable and the CCTV footage was also provided to the investigating officer just after the occurrence, but the same was shown to the informant later on. Moreover, there is ample material suggesting the complicity of the petitioner. In support of his submission, counter affidavit has also been filed. It is next submitted that the petitioner is a habitual offender and just after the occurrence, he has been named in a case of double murder.

Learned APP for the State also opposes the bail application and submits that from the materials available on record, it appears that the petitioner is the facilitator of the crime and it is he, who have actively participated in the crime.

Having regard to the submissions made on behalf of the parties and considering the fact that the petitioner is not the assailant and at best the petitioner is said to be the person, who was driving the motorcycle, on which the main assailant was sitting behind and moreover it is the specific case of the prosecution that the rider of the motorcycle was wearing helmet



and the informant could not identify and save and except the confessional statement of co-accused, there is neither any direct or circumstantial evidence nor any incriminating material has been recovered from his possession. Apart from the fact the petitioner is in custody since 04.11.2020 and prior to the institution of the present case, the petitioner had absolutely clean antecedent; further there is no allegation that the petitioner is indulged in tampering with the evidence and intimidating the witnesses, 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 Additional Chief Judicial Magistrate-IV, Patna in connection with S. K. Puri P.S. Case No. 88 of 2020, 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 ensure his attendance in the last week of every month before the local police station, till the informant is examined and if he will found indulge in the tampering of the evidence or intimidating the informant or witnesses the state will take initiative for cancellation of his bail.

(ii) The petitioner will cooperate in conclusion of the



trial.

(iii) He will remain present on each and every date of trial till disposal of the case.

(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.

It is expected that the learned trial court will take all necessary measures to ensure expeditious trial, as early as possible.

(Harish Kumar, J)

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