

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29598 of 2021

Arising Out of PS. Case No.-180 Year-2019 Thana- ASHOK PAPER MILL District-
Darbhanga

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Driver Md Rizwan @ Md Rizwan, Son of Md. Gulab Resident of Village-
Bilashpur, P.S.- Hayaghat, District- Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Madhusudan Kumar, Advocate
For the Opposite Party/s : Md. Mustaque Alam, APP

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

11 12-05-2022 The applicant/accused in Crime No. 180 of 2019

registered with A.P.M Police Station for the offences punishable
under Sections 302 and 120(B) 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 there is no iota of evidence
to connect the applicant to the crime in question.

On the behalf of the State, the learned Additional
Public Prosecutor argued that Md. Bilal had seen the applicant
in company of the deceased and they were going towards
Darbhanga. He has spoken about giving lift to co-accused Md.



Anirul and Md. Rabbani.

I have considered the submissions so advanced and also perused the materials placed before me including the counter affidavit by the State.

The incident in question took place on 03.12.2019. Deceased Md. Shaif @ Munna is son of the first informant Md. Basir. According to the prosecution case, Md. Shaif @ Munna was going by his Scorpio vehicle with his driver Md. Rizwan, i.e. the present applicant. On the way, co-accused Md. Anirul and Md. Rabbani took lift and sat in that vehicle. The prosecution alleged that thereafter Md. Shaif @ Munna was killed by firing a gunshot at him.

The applicant, even according to the prosecution case was driver of the deceased Md. Shaif @ Munna. According to the prosecution case, co-accused Md. Anirul and Md. Rabbani were given lift in the vehicle by deceased Md. Shaif @ Munna. Therefore, it is but natural that the applicant being driver of that vehicle would be found in company of his employer Md. Shaif @ Munna as well as two passengers Md. Anirul and Md. Rabbani to whom the lift was apparently given by deceased Md. Shaif @ Munna.

Evidence against the applicant, according to the



prosecution case is that of confessional statement of accused persons which are undoubtedly hit by Section 25 of the Evidence Act. Apart from this, there is no other evidence worth mentioning in the subject crime against the applicant. Therefore, further pretrial detention of the present applicant is not warranted and hence, the order :-

i. The application is allowed.

ii. The applicant/accused in Crime No. 180 of 2019 registered with A.P.M Police Station 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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