

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22722 of 2022

Arising Out of PS. Case No.-864 Year-2021 Thana- DANAPUR District- Patna

=====

Avinash Kumar @ Bhanta @ Avinash Kumar Dhiraj Son Of Suresh Rai @
Suresh Kumar Singh R/O Mohalla- Sultanpur, P.S.- Danapur, District- Patna

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s :	Ms. Soni Srivastava, Advocate,
For the Opposite Party/s :	Mr. Ajay Kumar Jha, APP.
For the Informant :	Mr. Shatish Chandra, Advocate.

=====

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 18-07-2022 Learned counsel for the petitioner is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Ms. Soni Srivastava, learned counsel for the petitioner, Mr. Shatish Chandra, learned counsel for the informant as well as learned Additional Public Prosecutor for the State.

The application for grant of bail to the petitioner, above named, who has been made accused and put behind the bar in connection with Danapur P. S. Case No. 864 of 2021 registered for the offences punishable under Sections 302, 120 (B) read with 34 of the Indian Penal Code and Section 25 (9) of the Arms (Amendment) Act.



The prosecution case is based on a written report alleging therein that on 29/30.11.2021, the daughter of the informant had gone to attend a marriage ceremony of her relative, where she was shot and thereafter, she was taken to hospital, however, during the course of treatment, she died.

Learned counsel appearing on behalf of the petitioner submitted that the petitioner is not named in the F.I.R.. It is evident from the tenor of the F.I.R. that the name of the four persons have been implicated in this case with an allegation that they have been found seen armed with weapon and making firing. It is further submitted that the name of the petitioner surfaced in the further statement of the informant, wherein he has also been identified as one of the persons making firing. It is next submitted that in fact, there was a marriage ceremony and the firing was celebratory firing and this is not the case of the prosecution that the deceased was shot intentionally or in premeditated plan. It is next submitted that even in the video footage or any photographs, it does not transpire that the death has taken place from the firing made by this petitioner. It is also submitted that the petitioner happens to be cousin brother of the deceased and there was no enmity or any motive of killing the deceased. It is further submitted that



there is no ballistic report, which suggests that the bullet found in the body of the deceased was fired from the gun of the petitioner. It is next submitted that this petitioner is a cancer patient and he is under regular medical treatment, apart from that he is in custody since 08.01.2022 and the investigation is already completed and the charge-sheet has been submitted.

Learned counsel for the informant vehemently opposes the bail application and submits that the firing caused by the petitioner resulted into death of an innocent lady, who was only present there to attend the marriage ceremony and because of the negligent act of the petitioner she was shot dead. It is also submitted that this petitioner is carrying multiple criminal antecedent. It is next submitted that during the course of investigation, it has come that the petitioner was seen while making firing.

On the other hand, learned APP for the State opposes the bail application.

Having considered the submissions made on behalf of the parties and taking into account the fact that the petitioner is not even named in the F.I.R., however, during the course of investigation, the informant in his further statement has stated about the complicity of the petitioner and it has only been



alleged that the petitioner was one of the persons making firing and save and except aforesaid allegation of making firing, there is no allegation that his firing resulted into the death of the deceased, apart from that after investigation of the crime, the charge-sheet has been submitted and he is in custody since 08.01.2022, let the petitioner, above named, 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, 1st, Danapur in connection with Danapur P. S. Case No. 864 of 2021, subject to the condition that one of the bailors will be the close relative of the petitioner with further conditions which are as follows:-

- (i) The petitioner will cooperate in conclusion of the trial.
- (ii) He will remain present on each and every date of trial till disposal of the case.
- (iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.
- (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 step for cancelling of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Harish Kumar, J)

shakir/-

U		T	
---	--	---	--

