

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23342 of 2022

Arising Out of PS. Case No.-463 Year-2021 Thana- PATLIPUTRA District- Patna

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Ganesh Kumar, Son of Upendra Prasad @ Upendra Rai, R/O- North Jai Prakash Nagar, Ashiyana Digha Road, Near C.R.P.F. Camp, P.S.- Rajiv Nagar, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bhola Prasad, Advocate
Mr. Amar Nath Singh, Advocate
For the Opposite Party/s : Mr. Nagendra Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 27-07-2022 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. Bhola Prasad, learned counsel for the petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Patliputra P.S. Case No. 463 of 2021 registered for the offences punishable under Sections 307, 115/34, 120(B), 326 of the Indian Penal Code and Section 27 of the Arms Act.

As per the prosecution, it is alleged that in the night of 12.09.2021 when the informant and his nephew were present on the road, then he saw that white colour Maruti Swift Dezire standing there and one Rahul Kumar, who is driver of brother



Anil Kumar and his own brother Amit Kumar Singh was sitting besides Rahul kumar on the back seat and unknown person was also seating there. It is also alleged that on the dictate of Amit Kumar Singh, the unknown person shot upon the informant and due to which he sustained firearm injury on his chest. The unknown person fired another round of firing, but the same did not hit him.

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, it has come that the police shown the CCTV footage to the spy of the police and he identified this petitioner, who step down from the alleged car towards the Gali just prior to the alleged occurrence. It is further submitted that neither the informant nor any of the family members, who were said to be present at the time of occurrence, had identified the petitioner nor the name of the spy has been disclosed in this case. It is next submitted that the petitioner was arrested only on suspicion and there is no other material, which suggests the complicity of the petitioner in the present crime. It is lastly submitted that this petitioner is in custody 16.09.2021 having no criminal antecedent and moreover after completion of investigation, charge-sheet has been submitted.



On the other hand, learned counsel for the State vehemently opposes the bail application and submits that the petitioner was identified by the spy of the police and during the course of investigation his complicity has transpired.

Having regard to the submissions made on behalf of the parties and considering the fact that the petitioner is neither named in the F.I.R. nor identified by the informant or his family members, inasmuch as save and except the material that he was seen, through CCTV footage, just prior to the alleged occurrence there is no other material and moreover he is in custody since 16.09.2021, 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-X, Patna in connection with Patliputra P.S. Case No. 463 of 2021, 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 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.

(Harish Kumar, J)

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