

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25336 of 2022

Arising Out of PS. Case No.-237 Year-2021 Thana- MAGADH MEDICAL COLLEGE
District- Gaya

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Sanjay Yadav Son of Balakeshwar Yadav Resident of Village - Belahi, P.S.-
Magadh Medical, District - Gaya.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr.Rabindra Kumar Priyadarshi, Advocate
For the Opposite Party/s : Mr. Bharat Bhushan, APP

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 10-08-2022 Heard Mr. Rabindra Kumar Priyadarshi, learned

counsel for the petitioner and Mr. Bharat Bhushan, the learned

APP for the State.

The case has been registered under sections 325, 341,
307, 120(B), 34 of the Indian Penal Code and 27 of Arms Act
and later 302 was added in connection with Magadh Medical
P.S. Case No. 237 of 2021.

The prosecution story, in brief, is that on 5.9.2021, the
informant with his friend Satyendra Kumar in course of
morning walk when reached near Gate No. 1 of Gaya Airport,
suddenly three accused persons came on a black colour bike and
overtook them. Two accused opened fire causing injury on the
thigh of the informant. Thereafter they made indiscriminate



firing or his friend Satyendra Kumar with clear intention to kill, as a result he received several bullet injuries and fell down. As locals on morning started gathering, on the sound of firing, the accused persons fled away. The villagers and friends took the injureds to the hospital. The informant further stated that Varun Yadav, Mallu Yadav, and Bablu Singh conspired together and gave contract to kill Satyendra Kumar who resulted into present act. Satyendra Kumar succumbed to injuries. On the Fardbeyan of informant Dhirendra Kumar the present case was lodged.

Learned counsel for the petitioner submits that a perusal of the FIR would show that he is not named accused in the said alleged occurrence. He further submits that subsequently, during course of investigation Mukesh Kumar and Jitendra Kumar were picked up by the police who in their confessional statement in paras-85-94 of the case diary have stated the role of the petitioner herein. As per them, the petitioner was also active participant to the said conspiracy to kill Satyendra and he was regularly in touch on mobile when the alleged crime took place.

Mr. Priyadarshi submits that the mobile number (9713756626) which formed the basis for alleging the conspiracy theory attributed to the petitioner, does not even



belong to him or his family members. He further submits that the petitioner was in judicial custody since 16.3.2021, alleged occurrence took place on 6.9.2021 and after the confessional statement of accused Mukesh Kumar and Jitendra Kumar, he was remanded in this case on 23.11.2021. He as submits that only on the basis of confessional statement of the aforesaid accused persons, he has been implicated in this case.

The learned APP on the other hand has submitted that it was murder and the way the deceased was killed, it can be brought in the ambit of heinous crime. He further submits that the two persons have named him to be conspirator and as such his role cannot be ignored and he thus opposed the bail.

The FIR was lodged against named persons alleging their role and motive in killing of the said Satyendra Kumar. Further the petitioner herein was in custody since 16.3.2021 as per submission of the learned counsel for the petitioner, the mobile number which has been attributed to the petitioner does not belong to him or his family members. Further his name has cropped up in course of confessional statement before the police and the charge-sheet has already been submitted and ultimately the petitioner has to face the trial.

Considering the aforesaid facts, this Court is inclined



to grant him the privilege of bail. However, in view of the fact that he do have criminal antecedent, some restrictions are necessary.

Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-IV, Gaya, in connection with Magadh Medical P.S. Case No. 237 of 2021 subject to the following conditions:

(i) one of the bailors should be the family members of the petitioner, who shall provide official document to show his/her bona fide;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reasons will entail his cancellation of bail by the Trial Court itself;

(iii) he shall appear before the concerned police station every day till conclusion of the trial to mark his presence;

(iv) he shall in no way try to induce or promise or threat the witnesses or tamper with the evidence, failing which the State shall be at liberty to take steps for cancellation of his



bail bonds;

(v) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

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