

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24826 of 2022

Arising Out of PS. Case No.-155 Year-2020 Thana- ISHAKCHAK District- Bhagalpur

Vikash Kumar @ Vikash Tanti S/O Hari Lal Tanti R/O Mohalla/Village-
Nawadih, Paharpur, P.S.- Dharhara, Distt.- Mugner

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Swapnil Kumar Singh

For the Opposite Party/s : Md. Nazir Ansari, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 16-08-2022 Let the defects, if any, be removed within four weeks
from today.

Heard learned counsel for the petitioner as well as learned
Additional Public Prosecutor for the State.

Petitioner seeks bail in a case registered in connection
with Session trial no. 581 of 2021 arising out of Ishakchak P.S.Case
No.155 of 2020 for the offences punishable under Sections
302,120B/34 of the Indian Penal Code and section 27 of the Arms
Act.

Prosecution case is based on a written report filed by the
informant alleging therein that on 04.12.2020 while the informant
along with his brother-in-law went to market, in the meantime, all the
FIR named accused persons and 2-3 unknown persons made
indiscriminate firing resulting into death of his brother in law.

Learned counsel appearing on behalf of the petitioner



submits that the petitioner is not named in the FIR, however, his name has transpired on the confessional statement of co-accused Chhotu Yadav , who has been already granted bail by the learned co-ordinate Bench of this Court in Cr. Misc. 52454 of 2021 vide order dated 09.05.2022. It is further submitted that save and except the call details report, suggesting the location of the mobile of the petitioner near the place of occurrence, there is no other material which suggests the complicity of the petitioner. It is further submitted that from the FIR, it is evident that the informant claimed himself to be an eye witness to the alleged occurrence and he took the name of nine persons but neither identified the petitioner nor took his name. It is next submitted that with regard to the same occurrence Ishakchak P.S.Case No. 156 of 2020 was also instituted by the police in which the present informant had only stated that his brother-in-law was killed by his enemies. It is next submitted that co-accused Tinku Yadav @ Sanjiv Kuamr, who is named in the FIR has already been granted bail by learned co-ordinate Bench of this Court in Cr. Misc. No. 39643 of 2021 vide order dated 28.07.2022. it is lastly submitted that this petitioner is in custody since 27.02.2021, having no criminal antecedent prior to the institution of Ishakchak P.S.Case No. 155 of 2020 and 156 of 2020.

On the other hand, learned counsel for the state opposed the bail and submits that ample material has come and as per call details report the location of the mobile of the petitioner has found



near the place of occurrence.

Having heard the rival contentions of the parties and taking into consideration the fact that while considering the bail application of the petitioner the trial court notices all the relevant materials surfaced during the course of investigation, but the only material which has come against the petitioner is location of mobile tower near the place of occurrence, there is no other material and moreover, the co-accused persons on whose confession, the name of the petitioner has transpired has already been granted bail by the learned co-ordinate Bench of this Court, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate IV, Bhagalpur in connection with Ishakchak P.S.Case No. 155 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 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)

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