

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34372 of 2021

Arising Out of PS. Case No.-725 Year-2020 Thana- TURKAULIYA District- East
Champaran

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MUNNA SINGH Son of Umesh Singh Resident of Village - Shekhauna, P.S.-
Ramgarhwa, Dist.- East Champaran. At Present Residing at Village -
Rahunathpur, O.P. (Turkauliya), Dist.- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kr. Thakur
Mr. Shivam

For the Opposite Party/s : Mr. APP.

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 04-01-2022 The present petition has been taken up for

consideration through the mode of Video conferencing in view

of the prevailing situation on account of COVID 19 Pandemic,

requiring social distancing.

Heard learned counsel for the petitioner, Sri Ajay
Kumar Thakur, learned counsel for the informant Sri Vijay
Shankar Srivastava and learned APP Sri Ajay Kr. Jha for the
State.

Petitioner seeks bail in connection with Turkauliya
(Banjariya) P.S. Case no. 725 of 2020 registered for the offence
punishable under sections 302, 120B and 34 of the Indian Penal
Code read with section 27 of the Arms Act.



Learned counsel for the petitioner submits that petitioner is in custody since 5.1.2021, is person with clean antecedent and charge sheet has been submitted. Learned senior counsel submits that the informant in the FIR alleges that he along with his brother had gone for morning walk when four unknown accused persons on two motorcycles intercepted and shot his brother dead, further the informant can identify the accused persons. Learned senior counsel submits that FIR was against unknown and name of the petitioner surfaced in the confessional statement of co-accused Chottu Sah and the petitioner after his arrest confessed his guilt before the police, learned senior counsel submits that confession before the police is not admissible in evidence, it is further submitted that though the informant claimed in the FIR that he can identify the accused persons but petitioner despite being arrested was never put on TI parade. Learned counsel further submits that from perusal of the statement of the informant recorded at para 29 of the case diary, it would manifest that this petitioner was known to the informant from before, as informant has given detailed description of the petitioner along with his family members. Thus, it is submitted that since petitioner was known to the informant and if the petitioner would have committed the



occurrence then the informant being an eye-witness must have disclosed his name in the FIR at the first instance.

Learned counsel for the informant vehemently opposes the bail application and submits that putting the petitioner on TI parade was the duty of the investigating authority, the benefit should not accrue to the petitioner for not being put on TI Parade, it is further submits that one Akhilesh Singh is eye-witness to the occurrence and he has identified this petitioner and thereafter based on CCTV footage petitioner has been identified by the people of the locality also, learned counsel for the informant is not able to meet the submissions of learned counsel for the petitioner that the petitioner was known to the informant from before and if petitioner had committed the occurrence then the informant would have named him in the FIR.

Learned counsel for the petitioner at this stage submits that it absolutely does not stand to reason that as to why the informant was not asked to identify the accused from CCTV footage, the reason being that the informant may not have identified the petitioner or CCTV footage may not have captured any such visual as is being recorded in the case diary.

Learned APP opposes the prayer for bail also.



Considering the facts that petitioner is in jail custody, is person with clean antecedent, charge sheet has been submitted and the petitioner was known to the informant from before and as such if the petitioner had committed the occurrence, the informant would have named him at the first instance, the petitioner is directed to be released on bail on furnishing bail bonds of Rs 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the Addl. Sessions Judge IV, Motihari, East Champaran in Sessions trial no. 245/2021 arising out of Turkauliya (Banjariya) P.S. Case no. 725 of 2020.

(Satyavrat Verma, J)

s.hassan/-

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