

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26377 of 2022

Arising Out of PS. Case No.-678 Year-2021 Thana- ARA NAGAR District- Bhojpur

Viki Kumar @ Viki Yadav, S/o Sri Suresh Yadav, R/o Mohalla- Shital Tola,
P.S.- Ara Town, District- Bhojpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Ajay Kumar Thakur, Advocate Mrs. Vaishnavi Singh, Advocate
For the Opposite Party/s :	Mr. Bharat Bhushan, APP
For the Informant :	Mr. Madanjeet Kumar, Advocate Mr. Manoj Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 20-09-2022 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. Ajay Kumar Thakur, learned counsel for the petitioner, Mr. Madanjeet Kumar, learned counsel for the informant and learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Ara (Town) P.S. Case No. 678 of 2021 registered for the offences punishable under Sections 302/34 and 120B of the Indian Penal Code and Section 27 of the Arms Act.

The prosecution case is based on a written report filed by the informant alleging therein that on 22.09.2021, at about



6.00 P.M., while the informant along with his friends were present in front of the gate of Sadar Hospital, Ara where his father is used to ply Ambulance and he was standing nearby his Ambulance, in the meantime, three persons, namely, Doman Yadav, Chetan and Dabal Yadav came on an Apache Motorcycle. Soon thereafter three other persons, namely, Bhulchul @ Buchul, Ravi Ranjan Yadav and one unknown person came from a Pulsar motorcycle and thereafter Chotu Yadav, Deepu Yadav and Mohit Kumar came on a Splendor Motorcycle. All the three persons, who came on Apache motorcycle wiped out their pistols and started firing. The other six persons, who also came on Pulsar and Splendor motorcycles started making indiscriminate firing in order to terrorize. The accused Doman Yadav, Dabal Yadav and Chetan surrounded the father of the informant and fired upon him, causing bullet injury over his head, face, back and stomach. The informant and his friend taken him to hospital, where he was declared dead. It is also alleged that the informant came to know that on 22.06.2021, the planning of occurrence was made at the house of Kunal Yadav in presence of all the accused persons. The conspirator of the present crime is said to be Dhanjee Yadav, Manjee Yadav and Dharmendra Yadav.



Learned counsel appearing on behalf of the petitioner submits that the petitioner is not named in the F.I.R., although the petitioner is well acquainted with the informant, but he has not named the petitioner, as one amongst the accused in the F.I.R. From the F.I.R., it would be evident that the informant and his friend Chhotu Kumar claiming themselves to be eye witness to the alleged occurrence and they were knowing each other from before and as such had the petitioner been present on the alleged occurrence, he would have definitely named in the F.I.R., but surprisingly later on after so many days when the statement of the informant was recorded under Section 164 of the Cr.P.C. he suspected the name of the petitioner, as one of the assailant. However, from perusal of the statement of the informant recorded under Section 164 of the Cr.P.C., it would be evident that in the next line he himself stated that he is not sure as to whether this petitioner had fired or not. He further submits that the alleged occurrence took place on 22.09.2021 at about 6.00 P.M. and thereafter the inquest report was prepared and the post-mortem was done on the same day in presence of the police officials, but no F.I.R. has been instituted and surprisingly, the same has been instituted on 23.09.2021 at about 4.00 P.M., which suggests that the F.I.R. has been instituted after due



deliberation and it is piece of after thought. He next submits that the occurrence took place in front of the Sadar Hospital, Ara, but there is no eye witness to the alleged occurrence. He lastly submits that the petitioner is in custody since 13.12.2021.

On the other hand learned counsel for the informant vehemently opposes the bail application and submits that as per the statement of the informant recorded under Section 164 of the Cr.P.C., the petitioner is one of the assailant, who fired upon the father of the informant, resulting into his death. He also submits that the petitioner has multiple criminal antecedent, inasmuch, as he is found involved in five other criminal cases.

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

Regard being had to the submissions made on behalf of the parties and considering the fact that the petitioner is not named in the F.I.R. and for the first time his name has suspected in the statement of the informant recorded under Section 164 of the Cr.P.C., though the informant and the petitioner were known to each other, apart from the fact that during the course of investigation no material has come showing the complicity of the petitioner and save and except the criminal antecedent, there is no cogent material against him and he is in custody since



13.12.2021, 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 Chief Judicial Magistrate, Bhojpur at Ara in connection with Ara (Town) P.S. Case No. 678 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 physically 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 immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in



terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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