

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35917 of 2021

Arising Out of PS. Case No.-342 Year-2018 Thana- SAHEBPUR KAMAL District-
Begusarai

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Pujan Yadav, Son of Hisabi Yadav, Resident of Village - Morkahi, P.S.-
Muffasil, Dist.- Khagaria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Viveka Nandsingh, Advocate
For the Opposite Party/s : Mr.Yogendra Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE A. M. BADAR
ORAL ORDER

2 28-01-2022 The applicant/accused in Sessions Case No. 16 of
2021 arising out of Crime No. 342 of 2018 registered with S.
Kamal Police Station for the offences punishable under Section
302 r/w Section 34 of the Indian Penal Code as well as Section
27 of the Arms Act, by this application is seeking his release on
bail during pendency of the trial.

Heard the learned counsel appearing for the
applicant/accused. He argued that earlier bail application of the
applicant was rejected with the observation that the applicant
can renew his request for bail after nine months if the trial is
not concluded. It is reported that the trial is not concluded. The
learned counsel for the applicant further argued that charge has
been framed and subsequently co-accused Kailu Yadav (vide



order dated 04.12.2020 passed in Criminal Misc. No. 26548 of 2020) and Shambhu Yadav (vide order dated 28.08.2019 passed in Criminal Misc. No. 53424 of 2019) are released on bail by the coordinate Bench of this Court and therefore the applicant is also entitled for bail. It is further argued that no specific role is attributed to the applicant in the crime in question.

The learned Additional Public Prosecutor opposed the application by contending that the earlier bail application of the applicant was rejected on merit by this Court vide order dated 25.06.2020 in which the liberty was granted to the applicant to move afresh after nine months if the trial is not concluded.

I have considered the submissions so advanced and also perused the materials placed before me.

Indisputably vide order dated 25.06.2020, the coordinate Bench of this Court has observed that on considering all the materials available on the record, no case for grant of bail to the applicant is made out, albit the liberty was granted to make afresh application after nine months.

The FIR of the subject crime is lodged by first informant Chand Yadav on the date of incident itself. He is an



eye witness of the crime in question. He reported that on 24.10.2018 he along with his brother Mithilesh Yadav (since deceased) were proceeding towards Kurha Bazar. They were followed by accused persons who were travelling on two motorcycles. The first informant further reported that near Raghunathpur, the rider of the motorcycles accosted them. According to the first informant, on first motorcycle, Kailu Yadav, Shambhu Yadav and the applicant named Pujan Yadav were travelling whereas on another motorcycle, Sudhir Yadav and two unknown were travelling. The first informant further stated that co-accused Kailu Yadav, Sambhu Yadav, Sudhir Yadav and the applicant named Pujan Yadav fired bullets at his brother Mithlesh Yadav and Mithilesh Yadav sustained bullet injury. Ultimately, Mithilesh Yadav died on reaching the Primary Health Centre.

It is thus clear that the first informant is specifically attributing the role of firing bullet to the applicant. The prosecution has invoked Section 34 of the Indian Penal Code and participation in action is reflected in the FIR.

I have perused the order dated 04.12.2020 and 28.08.2019 granting bail to co-accused Kailu Yadav and Shambhu Yadav. Kailu Yadav is released on bail with the



following observations:-

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Having regard to the submissions made by the parties and taking into consideration the materials available on record, I am inclined to grant regular bail to the petitioner after framing of charge.”

Similarly co-accused Shambhu Yadav is granted bail with the following observations:-

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Having considered the facts and circumstances of the case, let the above named petitioner be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of A.C.J.M.,-V, Begusarai in connection with Sahebpur Kamal P.S. Case No. 342 of 2018.”

It is thus clear that both these co-accused are granted bail without giving any reason. It is not mentioned in the order that after completion of investigation, role of the present applicant is found to be much lesser than that which was found at the time of the investigation. Thus on the basis of such unreasoned order, principle of parity cannot be claimed by the applicant.

Considering the materials placed on record, no case for grant of bail to the applicant/accused is made out.



Accordingly, the application stands rejected.

The applicant to remove all office objections forthwith and the Registry to issue the certified copy of this order only after removal of office objections by the applicant/accused.

(A. M. Badar, J)

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