

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.37974 of 2021**

Arising Out of PS. Case No.-139 Year-2020 Thana- KHAJEKALA District- Patna

Md. Chand, S/O- Md. Hasnain, R/O Mohalla - Shishe Ka Sipal, Noon Ka Chauraha, P.S. - Khajekala, District - Patna.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Ramakant Sharma, Sr.Adv. Mr. Arvind Kumar Pradhan, Adv.
For the Opposite Party/s	:	Mr.Akhileshwar Dayal, APP
For the Informant	:	Dr. Anand Kumar, Adv.

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

3 16-02-2022 Learned counsel for the petitioner undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Heard Mr. Ramakant Sharma, learned senior counsel for the petitioner, Dr. Anand Kumar, learned counsel for the informant and Mr. Akhileshwar Dayal, learned A.P.P. for the State.

Petitioner in the present case is seeking regular bail in connection with Khajekala P.S. Case No.139 of 2020 registered for the offences punishable under Sections 302, 188, 269, 270, 271 and 34 of the Indian Penal Code and Section 27 of the Arms Act. He has got two criminal antecedents and is in custody in



connection with this case since 25.04.2020.

Learned senior counsel for the petitioner has submitted that as per allegations in course of quarrel between the parties at first instance firing was done by Md. Chand and Md. Anjum whereafter the family of the informant started fleeing towards their house but in the second instance when the brother of the informant was on the roof of the house and from there he was looking at the ground, this petitioner is said to have fired upon him which hit him on his head and he suffered bleeding injuries. The brother of the informant was taken to P.M.C.H. but he was referred for better treatment to Ford hospital but he died in course of treatment.

Learned senior counsel submits that it is not possible to hit from the ground to the person who was on his roof, the whole allegations are false and the petitioner who has remained in custody for about one and half year deserves privilege of bail.

Learned senior counsel further submits that though the occurrence is of 20.04.2020 at 7.30 pm but the FIR has been lodged on 21.04.2020 at 3.45 am, thus there is a delay in lodging of the FIR.

On the other hand, learned counsel for the informant submits that the allegation against the petitioner is very specific.



At first instance, he and his brother fired from their pistol and in the second instance this petitioner fired at the brother of the informant which hit him on his head and he died as a result of the injury sustained by said shot. According to him, it is an open and shut case and the sole assailant is this petitioner.

It is further submitted that the FIR version is also getting support from the fact that the police has seized three empty cartridges of 7.65 mm pistol on the spot that explains the two shots fire at the first instance and the one shot which hit the deceased. As regards the delay in lodging of the FIR, it is submitted that there is virtually no delay inasmuch as it may be found that information with regard to the occurrence was given to the police station immediately after the occurrence at 7.20 pm, thereafter the informant had taken his brother to PMCH and then to Ford hospital. The FIR was lodged within few hours thereafter.

Learned APP for the State has also opposed the prayer for regular bail of the petitioner. It is submitted that the postmortem report also corroborates the specific allegation against the petitioner.

Having regard to the seriousness of the offence alleged, the specific allegation against the petitioner being the



sole assailant of the deceased and the severance of the punishment attached to the offences alleged as also the criminal antecedents of the petitioner, this Court is not inclined to release the petitioner on bail. Prayer for bail is, thus, refused.

This application is dismissed.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

