

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40123 of 2021**

Arising Out of PS. Case No.-357 Year-2020 Thana- SABAUR District- Bhagalpur

Jyotish Yadav, Son of Jaldhar Yadav, Resident of Village- Amdar, P.S.-
Sabour, District- Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Diwakar Yadav, Advocate

For the Opposite Party/s : Mr.Choubey Jawahar, APP

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

6 11-05-2022 Learned counsel for the petitioner undertakes to
remove all the defects as pointed out by office within two weeks
after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Mr.
Choubey Jawahar, learned A.P.P. for the State.

Petitioner in the present case is seeking regular bail in
connection with Sabour P.S. Case No.357 of 2020 registered for
the offences punishable under Section 302/34 of the Indian
Penal Code and Section 27 of the Arms Act. He is in custody
since 18.02.2021. According to the statement made in paragraph
'3' of this application, this petitioner has got one criminal
antecedent of a case under the Arms Act.

As per the prosecution story, the husband of the
informant was taken away by co-accused Prabhu Yadav and



Yogesh Yadav on a motorcycle. It is alleged that Prabhu Yadav had taken a loan of Rs.5 lacs from the husband of the informant and due to non-payment of the said amount both of them had quarrel. It is further alleged that there was also a dispute with co-accused Sanjay Choudhary who is Mukhiya of Daspur Panchayat on account of some contract amount. The said Mukhiya had abused the husband of the informant and it is further alleged that wife of the co-accused Prabhu Yadav has been threatening the informant of dire consequences. The informant thus alleges conspiracy on the part of Prabhu Yadav, Yogesh Yadav, Gayatri Devi and Mukhiya of Daspur Panchayat in the killing of her husband.

Learned counsel for the petitioner submits that the petitioner is not named in the FIR. He had in fact complained about concealment of an arm by one Firoz but on verification of his complaint the officer in-charge of Sabour police station lodged a case under the Arms Act in which the petitioner has been made accused. Later on, the petitioner has been brought in this case on the basis of his own confessional statement in which he has accepted that under a conspiracy the husband of the informant was brought to a particular place where he had shot dead the husband of the informant.



Learned counsel submits that except the confessional statement made before police there is no other material to connect him in the present case. In the meantime, co-accused Yogesh Yadav has also been granted bail by a learned coordinate Bench of this Court.

On the other hand, Mr. Choubey Jawahar, learned APP for the State submits that it is not only the confessional statement which is the basis of implication of the petitioner in the present case. According to him, police has conducted some scientific investigation and from paragraph '69' to '72' of the case diary it may be found that the location of the mobile phone of the deceased on the date of the alleged occurrence was taken and the same was tallied with the location of the mobile phone of the co-accused Prabhu Yadav and it was found that Prabhu Yadav was present at the place of occurrence where the husband of the informant was killed. It is further found that this petitioner was in touch with the co-accused Prabhu Yadav regularly on that day and at least 14 calls have been recorded in between Prabhu Yadav and this petitioner.

Learned APP submits that if this fact is seen to the present circumstance where Prabhu Yadav is still evading arrest and against the petitioner the charge has already been framed, it



may be concluded that if the petitioner is released on bail at this stage then the present trial would also be frustrated and it would not conclude on an early date.

Having regard to the materials noted hereinabove, the fact that on the date of the alleged occurrence both this petitioner and Prabhu Yadav are said to be in regular touch with each other and then Prabhu Yadav is still evading arrest whereas the charge against the petitioner is already framed, this Court is not inclined to release the petitioner on bail at this stage. Prayer for bail is, thus, refused.

The learned trial court is directed to proceed with the trial and all efforts be made to conclude the same as early as possible preferably within a period of 9 months from the date of communication of this order. If the trial still remains unconcluded for no reason attributable to the petitioner, he may renew his prayer for bail.

Before this Court parts with this order, the Senior Superintendent of Police, Bhagalpur is reminded of the order dated 25.04.2022 passed by this Court and the report dated 07.05.2022 received from his office. A perusal of the communication from his office only shows that even though the case against Prabhu Yadav has been found true he along with



co-accused Gayatri Devi and non-FIR accused Raju Pandit are still absconding and in this connection a statement has been made that Sunil Kumar, sub-inspector of police has conducted raid for their arrest but now he has been transferred and Pawan Kumar, officer in-charge, Sabour police station has been given charge of this case. What attempts have been made by him to arrest the absconding accused are not clear in the communication received from the office of Senior Superintendent of Police, Bhagalpur. He is directed to ensure that the absconding accused are duly arrested as early as possible and until the arrests are made he will personally supervise the matter as regards the steps required to be taken for their arrest.

Though the matter is being disposed of, he will submit his report in this regard before this Court within a period of two months from today when the matter will be listed under the heading “To Be Mentioned” for perusal of his report.

List this matter on 13.07.2022.

(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'.

