

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41778 of 2021

Arising Out of PS. Case No.-102 Year-2019 Thana- PARBATTa District- Bhagalpur

GOVIND KUMAR S/O FAGU SAH R/o village - Garaiya, P.S.- Parbatta,
District - Bhagalpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar Yadav, Advocate
For the Informant	:	Mr. Hans Raj, Advocate
For the Opposite Party/s	:	Mr. Yogendra Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

5 17-02-2022 Heard learned counsel for the petitioner, learned
counsel for the informant and learned A.P.P. for the State
through virtual court proceedings.

Let the defect(s), if any, be removed within a period
of four weeks after complete start of the physical Court.

The petitioner seeks regular bail in connection with
S.T. No. 82 of 2020 arising out of Parbatta P.S. Case No. 102 of
2019 instituted for the offences under Sections 302/34 of the
Indian Penal Code read with Section 27 of the Arms Act.

Learned counsel for the petitioner submits that the
petitioner is in custody since 05.12.2019 and charge-sheet has
been submitted.



The informant alleges that while his brother (deceased) was going to his house from Bhagalpur on a motorcycle and he along with Pankaj Kumar Roy were also on a motorcycle behind the deceased and saw from some distance that Rakesh Rai fired at the head of the deceased, Murli Rai fired at the head and neck of the deceased and Purushottam Yadav @ Chhotu Yadav fired at the head, neck, back and stomach of the deceased leading to instant death of the deceased, further while the informant and Pankaj tried to go near the deceased then Rakesh Rai and Chhotu Yadav fired at them also and the accused fled on three motorcycles which were being driven by three unknown persons. Further the villager Shambhu Kumar also saw the assailant firing at the deceased.

Learned counsel for the petitioner submits that petitioner is not named in the FIR, the informant has specifically named the assailant who killed the deceased, it is further submitted that at para 176 of the case diary the petitioner has been disclosed as the accused riding the motorcycle on which Rakesh fled, further the mobile location of the petitioner before and at the time of occurrence was found near the place of occurrence evident from paras 185, 190, 191 and 217 of the case diary, further para 293 of the case diary records the confessional



statement of co-accused and the Nokia mobile of the deceased is alleged to have been recovered from the petitioner as is evident from para 294 and 324 of the case diary. Learned counsel submits that based on the aforesaid facts which transpired in the investigation the petitioner came to be arrested. Learned counsel submits that as far as location of the mobile near the place of occurrence is concerned that might be a coincidence and the FIR does not even remotely suggest that the mobile of the deceased was missing or any of the accused while fleeing had taken away the mobile.

Learned counsel for the informant vehemently opposes the bail application and submits that at least in the investigation some material has come which connects the petitioner with the offence. It is further submitted that the petitioner is evading framing of charge and has four criminal antecedents.

Learned counsel for the petitioner submits that similarly situated co-accused have been granted bail by order dated 22.12.2020 in Cr. Misc. No. 32634 of 2020 and order dated 24.06.2021 in Cr. Misc. No. 6154 of 2021.

Learned A.P.P. for the State vehemently opposes the prayer for regular bail of the petitioner.



Considering the fact that the petitioner is in custody, charge-sheet has been submitted, is not named in the FIR and similarly situated co-accused have been granted bail, let the petitioner above named be released on bail **after framing of charge** on furnishing bail bond of Rs.25,000/- (Rupees Twenty-five Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge, Naugachia, Bhagalpur in connection with S.T. No. 82 of 2020 arising out of Parbatta P.S. Case No. 102 of 2019, with condition that one of the bails shall be father of the petitioner, namely, Fagu Sah.

(Satyavrat Verma, J)

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