

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33056 of 2022

Arising Out of PS. Case No.-30 Year-2020 Thana- BITHAN BAZAR District- Samastipur

Amar Jyoti Kumar @ Jyoti Kumar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ram Chandra Singh, Advocate

For the Opposite Party/s : Mr. Tarun Prasad Mandal, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

3 30-09-2022 Heard learned counsel for the petitioner and learned
APP for the State through video conferencing in view of the
COVID 19.

Let the defect(s), if any, as pointed out by the office
be removed within four weeks.

The petitioner is in judicial custody in connection
with Bithan P.S. Case No. 30 of 2020 for the offences under
Sections 302, 394 of the Indian Penal Code and Section 27 of
the Arms Act.

As per the prosecution story, the informant's father
and sister-in-law moved towards village after taking breakfast
with his motorcycle but he did not reach at his house and on the
next morning, he got information about his father lying on the
road and is died. His motorcycle was also missing. Further, he



got information that some unknown persons shot dead his father. Accordingly, the FIR instituted.

In this case, case diary was called for on 2.4.2022 which has since been received.

Mr. Ramchandra Singh, learned counsel who represents the petitioner, submits that no one has seen the occurrence and only because Lalan Kumar who was later apprehended by the police made a confessional statement implicating this petitioner as the person who shot at on the head of the deceased causing his immediate death that he has been dragged in this case. He further submits that the other co-accused namely Pappu Kumar has since been ordered to be enlarged on bail after framing of the charges by a coordinate bench of this Court and as such he also deserve the same treatment.

Per contra, Mr. Bharat Bhushan, learned APP submits that the confession of the Lalan Kumar has to be taken in totality inasmuch as on the basis of his confession, the looted motorcycle of the deceased was recovered and as such his further statement that as the deceased identified them and asked to let him go with the motorcycle, this petitioner opened fire causing his death cannot be ignored. It is his further submission



that this case was lodged in March, 2020 and the petitioner chose to walk into judicial custody only in March, 2022 and this delay has also to be taken into account.

In reply to the said submission put forward by the learned APP, Mr. Ramchandra Singh, Learned counsel for the petitioner submits that he was availing the opportunity of anticipatory bail which was dismissed on 9.2.2022 (Annexure-1). Immediately thereafter, he chose to surrender on 9.3.2022 and is in jail since then and as such, it cannot be said that he was evading the arrest.

Be that as it may, there is force in the submissions put forward by the learned APP that on the confession of co-accused Lalan Kumar, the looted motorcycle was recovered and he further made statement attributing the killing of the deceased to this petitioner and in that background, this Court for the present is not inclined to grant him relief and the bail application is accordingly rejected.

(Rajiv Roy, J)

Ravi/Ajay Singh

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