

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33553 of 2022

Arising Out of PS. Case No.-347 Year-2021 Thana- ARA NAWADA District- Bhojpur

Prakash Chaudhary, Son of Late Hemant Chaudhary @ Hemant Chaudhary,
Resident of Village - Belaur, P.s.- Udwananagar, Distt.- Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 33747 of 2022

Arising Out of PS. Case No.-347 Year-2021 Thana- ARA NAWADA District- Bhojpur

Ankit Kumar, Son Of Devendra Sharma @ Devendra Nath Sharma, Resident
Of Village- Dhanchhuha, Police Station- Chauri, District- Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 33553 of 2022)

For the Petitioner/s : Mr. Ashok Kr. Chaudhary, Advocate
Mr. Binay Kumar, Advocate

For the State : Mr. Ashok Kumar Singh

For the Informant : Mr. Ravindra Kumar, Advocate

(In CRIMINAL MISCELLANEOUS No. 33747 of 2022)

For the Petitioner/s : Mr. Surendra Kumar Singh, Advocate

Mr. Prabhat Kumar Singh, Advocate

For the Opposite Party/s : Mr. Zainul Abedin, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 07-11-2022 Since both the applications arise out of Ara Nawada
P.S. Case No. 347 of 2021, as such, they have been taken
together and are being disposed of by this common order.

Heard learned counsels for the petitioners, learned
APP for the State and learned counsel for the Informant.



Let the defect (s), as pointed out by the office, be removed within a period of four weeks.

In the present case, the petitioners seek bail in connection with Ara Nawada P.S. Case No. 347 of 2021 registered for the alleged offences under Sections 307, 302, 120(B) of the Indian Penal Code and Section 27 of the Arms Act.

As per prosecution case, the petitioner Prakash Chaudhary along with other co-accused persons fired upon the son of informant and two other persons. The son of the informant lost his life while he was being taken to the doctor at Patna.

The learned senior counsel appearing on behalf of the petitioner Prakash Chaudhary submits that the petitioner has been falsely implicated in this case and considering the date of occurrence, it is not probable that the informant was present at the place of occurrence and witnessed anything since it was the period of Covid-19 lock-down. The informant and the deceased both were having a large number of criminal cases of serious nature against them and the deceased might have been murdered by any of his enemies. The petitioner has been falsely implicated in this case as he was a witness of murder of his



father in the case arising out of Udwanthnagar P.S. Case No. 196 of 2016, in which the informant and his son were the main accused persons. Learned senior counsel further submits that the occurrence took place on 24.03.2021 at 1:30 p.m. but the F.I.R. was lodged at 10:30 p.m. i.e. after delay of more than nine hours when the police station was just at the distance of a few minutes from the place of occurrence. The petitioner is not having any criminal antecedent whereas the informant's side and his family members are criminals. Moreover, even on the facts of the F.I.R., it is clear that the petitioner was not apprehended from the spot and no recovery has been made from him and allegation of firing shot is against other co-accused persons as well. The petitioner is in custody since 11.04.2021 and not a single witness has been examined till date.

It has been submitted on behalf of petitioner Ankit Kumar that he was not named in the F.I.R. and his name transpired in the confessional statement of co-accused Shivam, who also named one Golu Kumar @ Ajitesh Kumar, Ranjit Chaudhary and Ram Kumar for their involvement in the instant case. The three co-accused persons named by this co-accused Shivam have been granted bail by the different co-ordinate Benches of this Court vide order dated 05.05.2022 passed in



Criminal Misc. No. 45164 of 2021, order dated 06.07.2022 passed in Criminal Misc. No. 48792 of 2021 and order dated 06.07.2022 passed in Criminal Misc. No.61350 of 2021, respectively. The case of the petitioner is on similar footing with other co-accused persons, who have been granted bail. The petitioner is in custody since 09.08.2021 and is having clean antecedent.

Learned APP as well as learned counsel appearing on behalf of informant vehemently oppose the submission made on behalf of petitioners. It has been submitted by learned counsel for the informant that the delay in filing of the F.I.R. is immaterial since the family members of the informant got injured and he needed first to take care of the treatment of the injured. Further, two of the injured persons have named the petitioner Prakash Chaudhary as the person who fired upon the deceased son of the informant. The postmortem report also supports and corroborates the injury attributed to the petitioner Prakash Chaudhary. However, learned counsel concedes that case of petitioner Ankit Kumar is on similar footing to those co-accused persons who have been granted bail.

Perused the records.

Having regard to the nature of allegation against the



petitioner Prakash Chaudhary, which appears to be grave and serious, I am not inclined to enlarge the petitioner on bail.

Hence, his prayer for bail is rejected.

However, considering the fact that the petitioner Ankit Kumar was not initially named in the F.I.R. and similarly placed co-accused persons have been granted bail after full consideration of the facts and further considering the period of custody of the petitioner along with submission of charge-sheet as well as his clean antecedent, the petitioner Ankit Kumar is directed to be released on bail on furnishing bail bonds of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Bhojpur at Ara, in connection with Ara Nawada P.S. Case No. 347/2021, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions :

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail



bonds of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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