

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44727 of 2021

Arising Out of PS. Case No.-492 Year-2017 Thana- GHORASAHAN District- East
Champaran

=====

AWADHESH SAH Son of Rambilash Sah Resident of Village - Kaswa
Kadamawa, P.S.- Ghorasahan, District - East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : M/s A. K. Thakur,
Abhishek Kumar, Advocates
For the Opposite Party/s : Mr. Anant Kumar 1, APP

=====

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

4 08-03-2022 Heard learned counsel for the parties.

The petitioner has preferred this application for grant of regular bail in a case registered under sections 302 and 34 of the Indian Penal Code.

As per the prosecution case, Madan Sah the petitioner herein is stated to have fired from his pistol hitting the brother of the informant in his chest. The injured brother was taken to the government hospital from where he was referred to Motihari and on way to Motihari he died.

It is submitted by learned counsel for the petitioner that the petitioner has been falsely implicated in the case. The written report was recorded on 28.9.2017 at 6.30 pm. It is submitted that from the case diary it would transpire that the



inquest took place on 28.9.2017 at 11.15 am ie much before the filing of written report. While there is allegation against two persons of having fired on the brother of the informant, subsequently in course of investigation, as only one point of entry and one point of exit was found in the postmortem report, the witnesses started making out a case that only the petitioner has fired. Although the allegation is of assault by *danda* and rod, however, the postmortem report shows that the deceased suffered two incised wounds which are unexplained and goes to show that the witnesses are not an eye witness to the occurrence. The petitioner is in custody since 9.9.2020 and there is no chance of the trial concluding in the near future. The petitioner undertakes to cooperate in the trial.

The application for bail is opposed by learned APP for the State who submits that from the postmortem report, the allegation against the petitioner is substantiated as the death is said to have been caused as a result of firearm injury.

A report was called for from the learned trial court from which it transpires that the case has been committed to the Court of sessions on 22.2.2022.

Having heard learned counsel for the parties and taking into consideration the allegations against the petitioner in



the FIR, the Court is not inclined to enlarge the petitioner on bail and the application is rejected.

Learned trial court is directed to expedite the trial.

Liberty is granted to the petitioner to renew his prayer for bail after six months, if from the date of receipt / communication of this order there is no substantial progress in the trial.

(Partha Sarthy, J)

Spd/-

U		T	
---	--	---	--

