

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45597 of 2021

Arising Out of PS. Case No.-51 Year-2005 Thana- PIRBAHOR District- Patna

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Dipu @ Dipu Kumar, aged about 34 years (Male), Son of Vijay Saw @ Vijay Prasad Saw @ Bijay Sah Resident of Village- Bhorha, P.S.- Jandaha, District- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sunil Kumar Pathak, Adv.

For the Opposite Party/s : Mr. Bhanu Pratap Singh, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 23-02-2022 Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

Petitioner seeks bail in connection with Pirbahore P.S. Case No. 51 of 2005 registered for the offences punishable under Sections 302/34 of the Indian Penal Code and Section 27 of the Arms Act.

The prosecution case, in short, is that the elder brother of the Informant, namely, Ashok Kumar Yadav, who is the driver of the Personnel Department at Ranchi, had come home during vacation period and he was to go to Ranchi on 8.2.2005 at 9 p.m. in the night but, in the meantime, Mukesh Kumar came at his house and asked him that a man is seeking him on road. Thereafter, he came out from the house and went to meet the said man. The Informant Kartik Kumar was also with his elder brother



behind him. Suddenly, the accused petitioner Deepu @ Dipu Kumar took out pistol and warned to kill him. Thereafter, Mukesh fired at his elder brother Ashok Kumar Yadav and Raja Kumar also fired at Ashok Kumar Yadav which hit below the eye due to which he fell down and the accused fled away. Thereafter, the Informant got his elder brother to P.M.C.H. for treatment where the doctor declared him dead.

Learned counsel for the petitioner submits that petitioner has one criminal antecedent and has committed no offence as alleged and he has falsely been implicated in the present case. Learned counsel for the petitioner submits that from the F.I.R., it appears that the allegation of assault is against the co-accused, namely, Mukesh and Raja Kumar. He further submits that the only allegation against the petitioner is that he had stopped and warned the Informant with pistol. He further submits that the petitioner is in custody since 23.03.2021 and there is no eye-witness to the alleged occurrence.

Learned Additional Public Prosecutor has vehemently opposed the prayer for bail saying that the petitioner carries one criminal antecedent.

Considering the aforesaid facts and circumstances, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like



amount each to the satisfaction of the learned Chief Judicial Magistrate, Patna in connection with Pirbahore P.S. Case No. 51 of 2005, subject to the following conditions:-

1. Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

2. If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

3. And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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