

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50170 of 2021

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

Rakesh Roy Son of Kailash Rai Resident of Village - Tulsipur, P.S.- Kharik,
District - Bhagalpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Vikram Singh, Advocate
For the Informant	:	Mr. Rajni Kant Singh, Advocate
For the Opposite Party/s	:	Mr. Amit Kumar Rakesh, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 07-02-2022 Heard learned counsel for the petitioner, learned counsel for the informant and learned A.P.P. for the State through virtual court proceedings.

The petitioner seeks bail in connection with Parbatta P.S. Case No. 102 of 2019 instituted for the offences under Sections 302 and 34 of the Indian Penal Code.

Learned counsel for the petitioner submits that the petitioner is in custody since 13.12.2019, charge-sheet has been submitted in the case and has antecedent of ten cases.

Learned counsel for the petitioner submits that the informant alleges that while his brother (deceased) was going to his house from Bhagalpur on a motorcycle, the informant along with Pankaj and Gaurav were also on a motorcycle behind the



deceased and saw from some distance that Rakesh Rai (petitioner) 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. It is further alleged that when informant and Pankaj tried to go near the deceased then, Rakesh and Chhotu fired at them also and the accused fled on three motorcycles which was being driven by three unknown persons. Further, that villager Shambhu Kumar also saw the assailant firing at the deceased.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the case though it is alleged that he fired at the deceased hitting his head but the postmortem report does not corroborate the allegation as alleged in the F.I.R. Learned counsel further submits that the petitioner has been implicated by the informant for reasons best known to him. It is further submitted that the learned court below has granted bail to one of the co-accused who is also alleged to be the assailant, namely, Murli Rai.

Learned counsel for the informant and learned A.P.P. for the State vehemently oppose the prayer for bail of the petitioner. Learned counsel for the informant submits that



petitioner along with Murli and Purushottam Yadav @ Chhotu Yadav are in the category of assailant of the deceased, as far as this petitioner is concerned, he was the first to fire hitting the head of the deceased. Learned counsel further submits that as far as the submission of learned counsel for the petitioner is concerned that the postmortem does not corroborate the allegation as alleged in the F.I.R., the same is incorrect for the reasons that the postmortem discloses injury near the ear. It is submitted that the informant seeing the occurrence may not had been in a position to give specific details that how the assailants fired and where the deceased was hit but the fact that is that the informant is an eye-witness to the occurrence and has given specific details and further there was no animosity between the informant and the petitioner due to which the informant would falsely implicate the petitioner.

Considering the fact that the petitioner is alleged to be the main assailant and has antecedent of ten cases of serious nature, the Court is not inclined to grant bail to the petitioner. His prayer for bail is thus rejected.

(Satyavrat Verma, J)

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