

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54073 of 2021

Arising Out of PS. Case No.-344 Year-2018 Thana- FATEHPUR District- Gaya

ASLOK SINGH SON OF JOGINDAR SINGH @ YOGENDRA SINGH R/O
VILLAGE- PAKRI, P.S.- FATEHPUR, DIST.- GAYA

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Pushkar Narayann Shahi, Sr. Advocate Mr. Gajendra Kumar Singh, Advocate
For the Opposite Party/s :	Mr. Shailesh Kumar, Advocate Mr. Anil Prasad Singh, A.P.P

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 26-04-2022 Heard learned counsel appearing on behalf of the
petitioner and learned APP for the State.

Let the defect(s) be removed within two weeks of the
complete start of the physical Court in normal course.

Petitioner, who is in custody since 19.07.2021, seeks
regular bail in connection with Fatehpur P.S. Case No. 344 of
2018 registered for offences punishable under Sections 302,
120(B), 34 of the Indian Penal Code and Section 27 of the Arms
Act.

The allegation is of murder of the son of the informant
by the FIR named accused persons including the petitioner.

Mr. Pushkar Narayan Shahi, learned Senior Counsel
appearing on behalf of the petitioner, at the outset, submits that
petitioner is not named in the FIR. There is allegation of enmity



between Rahul Kumar and the son of the informant. Allegation against the petitioner and other accused persons named in the FIR is based on the disclosure made by one Bhanu with whom the son of the informant Mohit Kumar (deceased) had gone to meet the accused persons named in the FIR including the present petitioner. At about 08:30 PM, the said Bhanu who had accompanied the deceased on the motorcycle of one Bharti informed the informant about the death of his son Mohit Kumar. On the basis of disclosure made by the said Bhanu that accused persons named in the FIR along with accused not named in the FIR are said to have resorted to indiscriminate firing on the son of the informant Mohit Kumar, who succumbed to injuries on the spot. Learned Senior Counsel further submits that Bhanu, who is the eyewitness has neither been made witness to the seizure list nor to the inquest report. It is his specific submission that he has played behind the back in alleged commission of murder. The FIR was lodged on 05.11.2018, but the statement of the said Bhanu was recorded after a delay of five days i.e. on 10.11.2018 wherein he has supported the allegation made in the FIR but such statement cannot be sustained. He further submits that even the motive behind the incidence is not supported as what has been alleged in the FIR that the incidence took place



because the co-accused Rahul Kumar had demanded XUV from the deceased. The statement of Bhanu has not been corroborated by the investigating officer by the circumstantial evidence gathered in course of investigation. The entire prosecution case fails for want of any witness. Present petitioner has been implicated in this case merely on suspicion which has no evidentiary value in the eye of law. Charge sheet has been submitted against the petitioner. Petitioner is in custody since 19.07.2021.

Mr. Shailesh Kumar, learned counsel appearing on behalf of the informant submits that Bhanu is the eye witness of the occurrence and immediately after commission of murder of the son of the informant by the accused persons by resorting to indiscriminate firing upon the deceased, said Bhanu informed the informant (father of the deceased). The said fact is also corroborated by one Tinku in Para-30 of the case diary, who had seen Bhanu with the deceased at about 12 PM on the motorcycle of Bharti.

Learned A.P.P., for the State has opposed the prayer for grant of bail to the petitioner.

Considering the facts and circumstances of the case it appears that present petitioner has been implicated in this case



on the basis of mere suspicion. The petitioner is in custody since 19.07.2021 and the trial is also not likely to be concluded soon, the Court below is directed to release the petitioner, above named, on bail upon furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-Xth, Gaya in connection with Fatehpur P.S. Case No. 344 of 2018 subject to the following conditions:

(i) Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

(ii) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.

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

(iv) If the petitioner is found involved in similar nature of offence, after his release on bail, the trial Court shall take steps to cancel his bail bond.

(Purnendu Singh, J)

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