

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55642 of 2021

Arising Out of PS. Case No.-93 Year-2020 Thana- NAUBATPUR District- Patna

Deepak Kumar, Son of Ramakant Sharma, Resident of Village- Beni Bigha,
P.S.- Bikram, Distt.- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mrs. Archana Sahi, Advocate
		Mr. Madhukar Anand, Advocate
For the Opposite Party/s :		Mr. Ram Bilash Roy Raman, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

6 14-09-2022 Learned counsel for the petitioner is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mrs. Archana Sahi, learned counsel for the petitioner as well as learned Additional Public Prosecutor for the State.

The petitioner seeks regular bail, who is in custody in connection with Sessions Trial No. 274 of 2021, arising out of Naubatpur P. S. Case No. 93 of 2020, registered for the offences punishable under Sections 302/34 of the Indian Penal Code and Section 27 of Arms Act.

The prosecution case is based on a written report, alleging therein that in the night of 19.02.2020, while the son of



the informant (Rupesh Kumar) was sleeping in the room constructed on the roof top of her house, a relative Deepak Kumar (petitioner) was also sleeping there. It is alleged that the informant was sleeping in another room, besides the aforesaid room. In the meantime, she heard the sound of a person walking and then she woke-up and saw that co-accused Pappu Kumar and the petitioner were present and they had pistol in their hand and when co-accused Pappu Kumar saw her, he caught her and forcefully tied her mouth with Gamchha and thereupon he shot her son on the head from his pistol and thereafter the petitioner too shot once at her son's head, as a result her son died.

Learned counsel appearing on behalf of the petitioner submits that the petitioner is said to be the relative of the deceased and no reason or any motive has been assigned for the said occurrence. The specific allegation of firing has been attributed to co-accused Pappu Kumar, thereafter exaggeration has been made that the petitioner also fired over the head of the deceased. She next submits that in fact the informant is not an eye witness to the alleged occurrence, but only on suspicion his name has been implicated with ulterior motive, as the F.I.R. has been instituted on 19.02.2021, but the same was received by the Judicial Magistrate with a delay of two days, which goes to



show that the F.I.R. was registered at a later date and time, after due deliberation. She next submits that in course of supervision it has come that the deceased had some dispute with the co-accused Pappu Kumar in connection with election of his wife and during the course of investigation the witnesses have categorically stated that it is Pappu Kumar, who fired upon the deceased. She lastly submits that the petitioner is in custody since 12.08.2020 and there is no substantive progress in the trial.

On the other hand, learned counsel for the informant opposes the bail application and submits that there is specific allegation against this petitioner that he is one of the assailant, who shot the son of the informant on his head and the post-mortem report also corroborate the prosecution case, inasmuch as two fire arm injuries have been found over the head of the deceased. He next submits that co-accused Pappu Kumar was granted bail vide order dated 22.07.2021, passed in Cr. Misc. No. 11683 of 2021 and on being aggrieved, the informant assailed the aforesaid order in SLP (CRL) No. 6335 of 2021 and the Hon'ble Supreme Court vide order dated 17.12.2021 has been pleased to allow the appeal filed by the informant and set aside the aforesaid order dated 22.07.2021.



Counsel for the State also submits that during the course of investigation, the petitioner was apprehended and he confessed his involvement in the present crime and on his disclosure, the fire arm, which was used in the crime, has been recovered. He lastly submits that the petitioner has found involved in three other serious nature of crime.

Regard being had to the submissions made on behalf of the parties and considering the specific nature of accusation as well as the gravity of the offences and severity of the punishment coupled with the criminal antecedent of the petitioner and the materials available on record brought during the course of investigation, inter alia, the statement of the petitioner leading to recovery of firearm, this Court is not persuaded to enlarge the petitioner on bail.

It is expected that the learned trial court will take all the necessary measures to expedite and conclude the trial, as early as possible.

(Harish Kumar, J)

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