

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56170 of 2021

Arising Out of PS. Case No.-46 Year-2021 Thana- BARGAINIA District- Sitamarhi

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Ajay Kumar Singh @ Ajay Singh S/O Late Nand Kishore Singh R/O Village-
Pachtakki, P.S-Bairgania, District-Sitamarhi.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Amit Kumar Jha, Advocate
For the Informant	:	Mr.Jai Prakash Singh, Advocate
For the Opposite Party/s	:	Mr.Amitesh Kumr, APP

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

5 24-03-2022 Heard learned counsel for the petitioner, learned
counsel for the informant and learned A.P.P. for the State.

The petitioner seeks bail in a case registered for the
offences under Sections 302 and 34 of the Indian Penal Code
read with Section 27 of the Arms Act.

Learned counsel for the petitioner submits that the
petitioner is in custody since 14.05.2021, is a person with clean
antecedent and charge-sheet has been submitted in the case.

Learned counsel for the petitioner submits that the
informant alleges that she along with her son (deceased) had
gone to Bairgania to meet her sister, further the deceased after
leaving the informant at her sister's place went to buy water
bottles. It is further alleged that the informant heard sound of



firing on which she came to the place of occurrence and saw the named accused persons, including the petitioner, along with 3-4 unknown criminals, whom she claims to identify after seeing, had surrounded the deceased and were firing indiscriminately. The deceased in order to save his life entered in Raj Hotel and the informant seeing that the accused were firing at her son fell and became unconscious and thereafter she was informed that her son has been killed. The informant further alleges that four days ago Manoj Gupta, Bam Shankar Chaudhary and 3-4 unknown persons had come to her house and threatened her that her son will not see Holi, further her son was a member of Bajrang Dal and had supported the candidate of NDA against the candidate of Congress and thus accused had enmity with him.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the case and from perusal of the allegation as alleged in the F.I.R., it would manifest that the informant is not an eye-witness to the occurrence. It is further submitted that the allegation as alleged *prima-facie* demonstrates that the informant has tried to falsely implicate the accused persons by by alleging that 7-8 persons had surrounded the deceased on the road and were indulged in



indiscriminate firing, when not a single empty cartridge has been recovered from the road. Learned counsel further submits that it absolutely does not stand to reason that if the victim was surrounded by 7-8 accused persons and the accused were firing indiscriminately then the chances of getting hit by the bullet were more cogent for the accused than the victim. It is further submitted that the allegation also gets discredited for the reason that it absolutely does not stand to reason that if indiscriminate firing was being made, after the victim was surrounded by 7-8 accused persons, then how come he could have fled inside the Raj Hotel. Learned counsel submits that no doubt death has taken place, the deceased has received 5 bullet injuries, but the occurrence was committed inside the Raj Hotel from where five empty cartridges have been recovered and the informant in the F.I.R. herself alleges that after she saw her son fleeing and entering Raj Hotel by that time she had lost her consciousness, further after she regained consciousness then she came to know that her son has been killed by the accused persons. The learned counsel thus submits that the F.I.R. is completely silent that as to who disclosed to the informant that her son has been killed by the accused persons including the petitioner.

Learned A.P.P. for the State and learned counsel for



the informant vehemently oppose the prayer for bail of the petitioner. The learned counsel for the informant submits that the informant is an eye-witness to the occurrence but is not able to meet the submission of the learned counsel for the petitioner that the informant herself in the F.I.R. has alleged that she fell unconscious on the road when her son fled and took refuge in the aforesaid Raj Hotel where the occurrence was committed and she was not an eye-witness to the murder which was committed inside the Hotel. Learned counsel for the informant is also not able to meet the submission of the learned counsel for the petitioner, that if the victim was surrounded by 7-8 persons and indiscriminate firing was being made then why not a single empty cartridge was recovered from the road. Learned counsel for the informant also is not able to meet the submission of learned counsel for the petitioner based on the allegation as alleged in the F.I.R that the informant has not disclosed the name of the person who had seen the occurrence being committed by the accused persons including the petitioner, killing the deceased.

Learning A.P.P. for the State at this stage submits that bail application of co-accused Bam Shankar Chaudhary was permitted to be withdrawn by order dated 01.02.2022 in Cr.



Misc. No. 44877 of 2021 with liberty to the said accused to renew his prayer for bail, learned counsel for the petitioner rebutting the submissions of the learned A.P.P. submits that in that case the learned counsel for the petitioner had sought permission to withdraw the bail application and thus the said permission was accorded with the aforesaid liberty and the arguments as put forth in the present case was not made by the learned counsel for the petitioner in that case.

Learned counsel for the petitioner further submits that the deceased was a veteran criminal having antecedent of five cases being Sitamarhi P.S. case No. 206 of 2013, Bairgania P.S. Case No. 180 of 2013, Bairgania P.S. Case No. 106 of 2016, Bairgania P.S. Case No. 113 of 2016 and Bairgania P.S. Case No. 75 of 2017. It is thus submitted that since the deceased was having criminal antecedents then it may be a possibility that he was killed by some other gang member and the petitioner who is a person with clean antecedent came to be implicated falsely. Learned counsel submits that from the thrust of the allegation, as alleged in the F.I.R., it would manifest that if there was any enmity, it was between the deceased, Bam Shankar Chaudhary, Manoj Gupta and Hardev Narayan Prasad who had threatened the deceased of dire consequences. Learned counsel for the



petitioner also submits that a person with clean antecedent would never indulge in such an act more so, when the allegations in the F.I.R., prime facie get discredited that despite indiscriminate firing on road, not a single empty cartridge was recovered.

Considering the fact that the petitioner is in custody, charge-sheet has been submitted in the case, the petitioner is a person with clean antecedent and taking into consideration the submissions made by the learned counsel for the petitioner, let the petitioner above named be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Bairgania P.S. Case No. 46 of 2021.

(Satyavrat Verma, J)

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