

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60428 of 2021

Arising Out of PS. Case No.-251 Year-2021 Thana- FATUA District- Patna

Manish Kumar, S/O Shambhu Singh R/O Village- Balwa, P.S.- Fatuha,
District- Patna

... .. Petitioner/S

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sujit Kumar
For the State	:	Mr. Ganesh Prasad Singh
For the Informant	:	Md. Anisur Rahman

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

7 20-04-2022 Heard learned counsel for the petitioner, learned
counsel for the informant and learned APP for the State.

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

The learned counsel for the petitioner submits that the
petitioner is in custody since 20.04.2021, he is a person with
clean antecedent, charge-sheet has been submitted in the case
and charges have been framed.

The learned counsel for the petitioner submits that the
informant alleges that at 6.00 P.M. on 29.03.2021, Santosh
Kumar, Chhotu Yadav came to his house and took his son
(deceased) despite informant's objection saying that he will



come soon. The informant and his wife saw that three named accused persons waiting near the house of Sukhu Singh and as soon as the deceased reached there, accused Manish Kumar was handed over a pistol by Shambhu Singh and on orders of Bharosi Singh, Manish Kumar shot the deceased, who died at the spot. It is submitted that the occurrence has also been witnessed by one Mohan Kumar.

The learned counsel for the petitioner submits that though the petitioner is alleged to be the main assailant, but the manner in which the allegations have been alleged in the F.I.R. does not inspire confidence. The learned counsel submits that it absolutely does not stand to reason that on orders of Bharosi Singh, Shambhu Singh would have given the pistol to Manish Kumar and Manish Kumar in presence of Chhotu Yadav, Santosh Kumar and the parents of the deceased and Mohan Kumar would have shot the deceased and thus, created an evidence against himself. The learned counsel further submits that during the course of investigation, it has come that it was day of Holi and on that date, Chhotu Yadav, Santosh Kumar and the deceased were having fun with a pistol and were fighting amongst themselves when Manish Kumar came and all four of them were baying for the pistol which was being carried by



Chhotu Yadav and in the malign, the pistol mistakenly fired causing death of the deceased. The learned counsel submits that the independent witnesses Sunil Kumar, Mukul Singh and Bablu Kumar's statements have been recorded at Paras-32, 33 and 34 of the case diary respectively wherein they have also stated that the pistol was being carried by Chhotu Yadav, Manish Kumar, deceased and Santosh Kumar were baying for the gun on account of which the gun fired leading to death of the deceased. The learned counsel further submits that Chhotu Yadav is related to the deceased and belonged to the same family and are cousins, but this fact has been concealed in the F.I.R. It is thus submitted that the informant in order to save Chhotu Yadav by whom the gun mistakenly fired implicated the present petitioner or else, there appears no reason why the relationship between Chhotu Yadav and the deceased has been concealed.

The learned counsel for the informant as well as learned A.P.P. for the State opposes the bail application and submits that the petitioner is the main assailant, but is not able to meet the submissions of the learned counsel for the petitioner that the independent witnesses have not supported the prosecution case and the F.I.R. does not disclose that Chhotu Yadav was related to the deceased and the informant.



Considering the fact that the petitioner is in custody, he is a person with clean antecedent, charge-sheet has been submitted in the case, charges have been framed and taking into consideration the submissions made by the learned counsel for the petitioner and also the statement as recorded of the independent witnesses as aforesaid, the petitioner, above-named, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Court below where the case is pending in connection with Fatuha P. S. Case No.251 of 2021.

It is made clear that if the learned Court below comes to a conclusion that the petitioner after release is trying to delay the proceeding of the trial, then the learned Court below shall forthwith cancel his bail bonds.

The application stands allowed.

(Satyavrat Verma, J)

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