

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60649 of 2021**

Arising Out of PS. Case No.-459 Year-2021 Thana- ARA NAGAR District- Bhojpur

Shivan Kumar @ Shivam Kumar @ Shivam Yadav

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Chandra Mohan Jha

For the Opposite Party/s : Mr.Umesh Lal Verma

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 05-09-2022 Let the defects, if any, be removed within four weeks from today.

Petitioner seeks bail in a case registered in connection with Town P.S. Case No. 459 of 2021 for the offences punishable under Sections 302, 34, 120b of the Indian Penal Code and 27 of the Arms Act.

It is alleged that on 04.07.2021, while the informant was coming along with his brother Raju Yadav on different motorcycles after morning walk, the FIR named accused persons namely, Chhotu Mishra, Vipul Kumar and Golu Kumar made indiscriminate firing which resulted into death of the brother of the informant. It is further alleged that other five persons were also present



there and worked as a liner in the crime.

Learned counsel for the petitioner submits that petitioner is not named in the FIR. However, during the course of investigation, the informant disclosed the name of the petitioner in his further statement, though the informant claiming to be an eye witness to the alleged occurrence. He submits that had the petitioner been present at the place of occurrence, who is also known to the informant, he would have certainly disclose the name of the petitioner. He next submits that so far specific allegation is concerned, the same has been attributed against three FIR named accused persons namely, Chhotu Mishra, Vipul Kumar and Golu Kumar, who made indiscriminate firing . He lastly submits that other co-accused persons having allegation of liner and conspirator , they have been enlarge on bail by this Court in Cr. Misc. No. 19491 of 2022 vide order dated 18.07.2022 and Cr. Misc. No. 25927 of 2022 vide order dated 18.08.2022.

On the other hand, learned counsel for the State opposed the bail application however, he shown his unableness to confront the order passed by this Court with



regard to the co-accused persons having identical allegation.

Regard being had to the facts and circumstances of the case that petitioner is not named in the FIR, though the informant is claiming himself to be eye witness and another co-accused having identical allegation has already been granted bail and this petitioner is in custody since 12.07.2021, let the petitioners, above named, be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Bhojpur at Ara in connection with Town P.S.Case No. 459 of 2021 subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive



dates without any cogent reason, their bail bonds will liable to be cancelled.

(v) The Court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner have concealed his criminal antecedent, the court below shall take step for cancelling of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above- mentioned order shall not be delayed for purpose of or in the name of verification.

(Harish Kumar, J)

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