

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65511 of 2021

Arising Out of PS. Case No.-67 Year-2020 Thana- JAMALPUR District- Munger

Ajeet Kumar Son of Anil Kumar Sah Resident of Village - Dharhara Road
Near Sai Mandir, Chhoti Keshopur, P.S.- Jamalpur, Distt.- Munger.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner	:	Mr.Bhola Kumar, Advocate
For the State	:	Mr.Ashok Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE A. M. BADAR
ORAL ORDER

3 07-03-2022 The applicant had claimed out of turn hearing on the
ground of illness of his mother.

The applicant is an accused in Crime No. 67 of 2020 registered with Jamalpur Police Station for the offences punishable under sections 302, 120(B) and 34 of the Indian Penal Code as well as 27 of the Arms Act.

The learned counsel for the applicant argued that the applicant is not named in the FIR and his name has been surfaced on the record of investigation through the confessional statement of co-accused Santosh Jha and Rajesh Kumar Jha.

The learned APP opposed the application on the basis of averment made in the counter affidavit and by relying on paragraphs 6, 8, 9, 10 and 24 of the case diary. He argued that first informant Chamak Prasad Kushwaha has received secret



information subsequently to the effect that the applicant is involved in the subject crime and he has arranged escaping of the assailants by the four wheeler vehicle. The learned counsel for the first informant also opposed the applicant by relying on the order of coordinate Bench of this Court dated 28.2.2022 in respect of co-accused Santosh Jha and Rajesh Jha.

I have considered the submissions so advanced and also perused the material placed on record.

The prosecution has invoked provision of section 120(B) of the IPC for implicating the present applicant in the subject crime. Though, direct evidence of conspiracy may not be available but the the prosecution is enjoined to collect at least some evidence to indicate meeting of mind and conspiring by the accused persons for achieving the desired result of commission of crime.

The first informant Chamak Prasad Kushwaha is an eye-witness to the subject crime. His son Avinash Chandra Kushwaha has been murdered in the incident in question at the poultry farm. The first informant, Chamak Prasad Kushwaha has categorically named Santosh Jha, Rajesh Jha, Gulab Jha and Rampati Mandal apart from 4-5 unknown persons as assailants who murdered his son Avinash Chandra Kushwaha.



The learned APP could not point out any evidence to show the present applicant was one from amongst those 4-5 unknown assailants.

In paragraph-6 of the case diary, restatement of the first informant, Chamak Prasad Kushwaha has been recorded on 20.06.2020 i.e on the date of lodging the FIR. Apart from the averment in the FIR he added that he received secret information regarding arrangement of vehicle by the present applicant in order to enable the accused persons to flee from the spot. What was that sources is not disclosed by the first informant. Rest of the paragraphs relied by the learned prosecutor from the case diary pertains to statement of Dayanand, Sapna Devi Bhaskar and Rohit Kumar.

The learned APP is fair enough to state that all these witnesses have not named the applicant as assailant or have ascribed any role to the present applicant in the subject crime.

So far as the confessional statement of the co-accused are concerned, the same are not admissible and this Court cannot look into those confessional statements.

The coordinate Bench of this Court has rejected bail application of co-accused Santosh Jha and Rajesh Jha. However, the case of the present applicant is on totally different footing.



The co-accused Santosh Jha and Rajesh Jha were the actual assailants who have been named by the eye-witnesses of the subject crime.

It is reported that the applicants are not having any criminal antecedents.

In this view of the matter, I see no reason to refuse bail to the present applicant after completion of the investigation of the subject crime and therefore, the order.

I. The application is allowed.

II. The applicant/accused in Crime No. 67 of 2020 registered with Jamalpur Police Station is directed to be released on bail on executing P.R. Bond of Rs. 15,000/- (Fifteen Thousand) on furnishing sureties of the like amount to the satisfaction of the trial court with the following conditions:-

(I) The applicant/accused should not extend any threat, promise of inducement to the persons acquainted with the facts of the accusation against him so as to dissuade him from disclosing such facts to the Court or to any police officer.

(II) The applicant/accused should cooperate the trial in expeditious disposal of the trial against him.

(III) The applicant/accused should not contact the members of the prosecuting party as well as witnesses in this



case in any manner till conclusion of the trial.

(IV) The applicant should not repeat commission of similar offence in future and if he is found to be involved in commission of similar offence, the State is at liberty to apply for cancellation of bail granted to the applicant in the instant case.

The applicant to remove all office objections forthwith and the Registry to issue certified copy of this order only after removal of office objections by the applicant/accused.

(A. M. Badar, J)

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