

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70100 of 2021

Arising Out of PS. Case No.-111 Year-2019 Thana- PASRAHA District- Khagaria

RAKESH YADAV Son of Late Ganesh Yadav Resident of Village - Basua,
Police Station - Pasraha, District - Khagaria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Viveka Nand Singh, Advocate

For the Opposite Party/s : Mr.Md. Mushtaque Alam, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

3 06-09-2022 Heard Mr. Viveka Nand Singh, learned counsel for

the petitioner and Mr. Md. Mushtaque Alam, learned APP who

represents the State.

Let the defect(s), if any, as pointed out by the
office, be removed within four weeks.

The case is registered under Sections 302/34 of the
Indian Penal Code and 27 of the Arms Act, in connection with
the Supplementary Pasraha P.S. Case No. 111/2019.

As per the allegation, the informant heard firing in the
midnight (12.30 a.m.) and thereafter saw two persons with pistol
coming out of their thatched house. He raised alarm whereafter
the two persons opened fire in the air and fled away. The
informant in the light of bulb identified them as Sugan Yadav
and Rakesh Yadav besides two other persons Azad Yadav and



Sipan Yadav who were standing outside and all the four accused fled away on two motorcycles. The informant rushed towards his house only to see his father lying dead on the cot. He had injuries on his head and belly. Accordingly, the FIR was lodged.

In this case, case diary as also post-mortem report was called for on 24.5.2022.

Mr. Vivekanand Singh, learned counsel submits that no one has seen the occurrence nor there has been any motive and the statement of the lady, widow of the deceased in para 9 of the case diary shows that she had seen the occurrence. As such, he questioned lodging of the FIR by her son as also not informing at the first stance about having seen the occurrence.

Per contra learned APP submits that the chain is complete inasmuch as;

- (i) the informant heard the firing,
- (ii) he saw the two accused including the present petitioner coming out of the thatched house with pistol in their hand,
- (iii) he identified them in the light of the bulb and
- (iv) he rushed towards the thatched house only to find his father lying dead with gun-shot injuries on his head and



belly.

Learned APP for the State further points out that only after the processes were issued against the petitioner, he has come in into the judicial custody. So far as submission of learned counsel for the petitioner is concerned, in view of the fact that chain is complete, the such as the role of the petitioner cannot be ignored.

Further regarding the statement made by the widow of the deceased, the same has actually supported the prosecution story, inasmuch as, the persons who were identified by the informant have also been named by the said widow.

Considering all the aforesaid facts, this Court for the present is not inclined to grant any relief to the petitioner and the bail application is accordingly rejected.

The Trial Court is directed to expedite the trial and conclude the same preferably within a period of one year.

(Rajiv Roy, J)

Ravi/Ajay Singh

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