

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70131 of 2021

Arising Out of PS. Case No.-402 Year-2020 Thana- BHABHUA District- Kaimur (Bhabua)

Rameshwar Singh Son of Late Iqbali Singh Resident of Village/ Mohalla-
Ward No.20, Police Station- Bhabhua, District- Kaimur at Bhabhua (Bihar)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Kali Prasanna Dubey, Advocate
		Mr. Yogendra Kumar, Advocate
For the Opposite Party/s :		Mr.Madhuri Lata,APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

4 18-10-2022 Heard learned counsel for the petitioner and learned
APP for the State.

Let the defect (s), as pointed out by the office, be
removed within a period of four weeks.

In the present case, the petitioner seeks bail in
connection with Bhabhua (Sonhan) P.S. Case No. 402 of 2020
registered for the alleged offences under Sections 302 and 34 of
the Indian Penal Code and Section 27 of the Arms Act.

As per prosecution case, the informant and his brother
were ploughing their field by tractor and the petitioner and other
co-accused persons came and the petitioner fired from his rifle
and shot dead the brother of the informant.

Learned counsel for the petitioner submits that



petitioner is innocent and has been falsely implicated in this case. The informant is not an eye witness and it is clear from the facts of this case. In the present case, Bhabhua Police got an information on 27.06.2020 regarding murder of a person in his field while ploughing it by tractor and after getting information police registered a sanha and went to the place of occurrence at about 9:30 AM but no one was there to lodge a case or to disclose as to how the deceased was done to death. Even, when the police official went there but no complaint was made against anyone. The deceased had a criminal antecedent and he was wanted accused being a prolonged absconder of Bhabhua Police Station Case No. 06 of 2019. Even then police did not recognize him or his whereabouts. When the police started preparing the inquest report two persons came forward who were present there all along with the assembled crowd and they were the co-accused in Bhabhua P.S. Case No. 423 of 2020. The inquest report was prepared at about 11:30 AM on 27.06.2020 by S.H.O of Sonhan Police Station in which the aforesaid two witnesses, namely Munna Singh and Dipu Kumar, put their signatures as witnesses on inquest report but they did not say anything regarding the occurrence and no case was registered in police station for the said death of the deceased till that time. The body



of the deceased was sent for post mortem at about 12:40 PM but even till that time no narrative about the death of the deceased was available to the authorities. After receiving the dead body of the deceased, his younger brother who is a PACS Chairman, came to the police station of Sonhan and handed over a written complaint making allegation that petitioner has fired upon the deceased and also implicated all the male family members of the petitioner as accused stating himself to be an eye witness. Thereafter, the sonhan Police forwarded the written report of the informant to Bhabhua Police for registering the case upon which the Bhabhua Police drew up a formal F.I.R. showing time of 3:30 PM on 27.06.2020, which shows that after deliberation and consultation and that too without showing any motive the petitioner has been implicated along with his all male family members in this case. Learned counsel further submits that witnesses included in the charge sheet did not acknowledge the presene of each other while all the four witnesses claim themselves to be eye witnesses and present at the place of occurrence. All of them said in unison that they informed the family members of the deceased.

Learned counsel further submits that the petitioner and his family members have been falsely implicated in this



case as there is land dispute between the parties. The father and uncle of the petitioner had sold their land on condition precedent that a plastic factory was to be installed by the purchaser Md. Ali Siddiqui. But soon after registry, without paying any consideration money for the land, the said purchaser fled away and when he started selling the land at lesser prices the petitioner and his cousin filed a Title Suit bearing No. 807 of 2017 against the purchaser Md. Ali Siddique and others and injunction order was passed by the court of learned Munsif, Bhabua on 18.11.2017 granting status quo upon the land which apparently went in favor of the petitioner's family. A supplementary affidavit in this regard has been filed bringing on record the order of the learned trial court regarding grant of status quo on the disputed land. Learned counsel further submits that as status quo order was violated, the learned trial court directed to make all the purchasers parties in this case. Learned counsel further submits that the deceased and his brother had been purchasing the land of poor person and they also purchased the disputed land though a stay was operating on the said land. The informant himself became identifier on four sale deeds executed by Md. Ali Siddiqui. These lands were registered in the name of four associates of the deceased. But, Investigating



Officer did not examine these facts. In order to grab the land of the petitioner the informant has made him and his all family members accused in this case. Learned counsel further submits that the petitioner has got clean antecedent and other co-accused persons were granted bail vide order dated 16.04.2021 passed in Cr. Misc. No. 7049 of 2021, vide order dated 02.07.2021 passed in Cr. Misc. No. 9035 of 2021 by different Coordinate Benches, respectively. Learned counsel further submits that the petitioner is in custody since 01.07.2020 and there is no likelihood of conclusion of trial in near future.

Learned APP for the State as well as learned counsel appearing on behalf of the informant vehemently oppose the submission made on behalf of the petitioner. Learned counsel for the informant submits that the eye witnesses have all supported the prosecution case and they have named the petitioner who fired from his rifle on the brother of the informant. Learned counsel further submits that the brother of the informant purchased the land from Md. Ali Siddiqui and got the mutation of the land done in his name and was in the possession of the same. So, it was not the case that he was forcibly ploughing the land of the petitioner. Learned counsel for the informant submits that rifle was seized from the house of



the petitioner which was used in shooting the brother of the informant. He further submits that two witnesses have been examined so far in this case and they have supported the prosecution case. Learned counsel further submits that the trial would not take much time for conclusion.

Perused the records.

Having regard to the facts and circumstances and submission made on behalf of the parties and considering the facts in the back ground of land dispute, doubtful nature of prosecution case considering the material brought before this court and possibility of false implication and further considering the period of custody of the petitioner i.e over two years and the slow pace of trial and also considering the clean antecedent of the petitioner, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Kaimur at Bhabhua in connection with Bhabhua (Sonhan) P.S. Case No. 402 of 2020, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions:

- (i) One of the bailors will be a close



relative of the petitioner.

(ii) The petitioner will remain present on each and every date fixed by the court below.

(iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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