

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70919 of 2021

Arising Out of PS. Case No.-36 Year-2021 Thana- KORMA District- Sheikhpura

Sudhir Kumar Son of Late Karu mahto Resident of Vill - Bataura, P.S. - Korma, Dist. - Sheikhpura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Y.C. Verma, Sr. Advocate Mr. Anuj Kumar, Advocate
For the State	:	Mr. Uday Chand Prasad, APP
For the informant	:	Mr. Chandra Bhushan Prasad, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

6 13-12-2022 Heard learned counsel for the petitioner and learned
APP for the State as well as learned counsel for the informant.

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 Korma P.S. Case No. 36 of 2021 registered for the alleged offences under Sections 302/34 of the Indian Penal Code and Section 27 of the Arms Act.

As per prosecution case, the informant alleged that the petitioner and other co-accused persons shot her husband dead. The occurrence took place in the background of a loan of Rs. 10-12 Lakhs given by the deceased to co-accused Arvind Kumar.



The learned senior counsel for the petitioner submits that the informant is not an eye witness and she has not seen the occurrence. Though, the son of the informant Amit Ranjan claims himself to be a witness but he did not lodge any report with the police and he did not see the occurrence through his own eyes. Even in his statement recorded before police, he said he saw the petitioner and other co-accused running away from the spot but he is not supported by other witnesses. Learned senior counsel further submits that the chowkidar of an industrial unit who was present at the spot and was knowing this petitioner recorded his statement before the learned trial court but in his deposition before the learned trial court he has specifically stated that the petitioner was not present and the three persons who caught hold of the deceased were not from the village. Even from the CCTV footage, the identity of the petitioner was not established as an assailant. Learned senior counsel further submits that the police received information about the occurrence on its own and reached the spot without being informed either by the informant Renu Devi or her son Amit Ranjan.

Learned senior counsel further submits that if the bail granted bail to the petitioner would appear before the learned



trial court on each and every date and would not try to hamper the trial. The petitioner is in custody since 03.09.2021 and prosecution evidence is being recorded in this case. Learned senior counsel while concluding his argument submits that the Hon'ble Supreme Court has also observed that a person is in a much better position to look after his case and to properly defend himself if he were released from the custody.

Learned APP as well as learned counsel for the informant oppose the submission made on behalf of the informant. Learned counsel for the informant submits that the witnesses in paragraphs 14, 15, 20 and 30 of the case diary have supported the prosecution case against the petitioner and other co-accused persons. Learned counsel further submits that three bullet wounds have been found on the person of the deceased and the allegation against the petitioner and other co-accused persons are for causing his death.

Perused the records.

Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the lack of substantive material on record to connect the petitioner with the offence as alleged and further considering his period of custody and stage of trial, 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 Additional Chief Judicial Magistrate-1st, Sheikhpura in connection with Korma P.S. Case No. 36 of 2021, subject to the conditions mentioned in Section 437(3) of the Cr.P.C. and 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 and would not try to hamper the trial.

(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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