

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71782 of 2021

Arising Out of PS. Case No.-309 Year-2020 Thana- SAUR BAZAR District- Saharsa

Nirmal Kumar @ Angil Yadav, S/O Laxmi Prasad Yadav R/O Village-Indarwa, P.S.- Sour Bazar, District- Saharsa

... .. Petitioner/S

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bijay Kumar Pathak
For the Opposite Party/s : Mr. Ram Anurag Singh

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 17-05-2022 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner seeks bail in a case registered for the offences punishable under Sections 147, 148, 149, 341, 323, 302, 120(B), 504 of the Indian Penal Code and Section 27 of the Arms Act.

The learned counsel for the petitioner submits that the petitioner is in custody since 05.12.2020, he is a person with clean antecedent and charge-sheet has been submitted in the case.

The learned counsel for the petitioner submits that the informant alleges that on 06.08.2020 at about 11.00 P.M., the petitioner along with 12 other accused persons and 3-4 unknown came to the house of the informant variously armed and shot his



uncle when the deceased was resting on his cot. It is next alleged that the said occurrence took place on account of dispute relating to land and it is specifically alleged that it was the petitioner, who shot the deceased on his chest and co-accused Sarvesh Kumar shot on the arms of the deceased on account of which, he died.

The learned counsel for the petitioner submits that no doubt, the petitioner is alleged to be the main assailant of the deceased, but then the wife of the deceased Anar Devi had instituted Sour Bazar P. S. Case No.347 of 2020 (Annexure-3 to the bail application) wherein she has specifically alleged that it was the informant of the present case, who is the assailant of her husband. The learned counsel further submits that since Anar Devi was in the house of and she had seen the occurrence, as such, she went to the police station to register her protest with regard to the present F.I.R., but since police was in connivance with the present informant and as such, police did not take notice of the complain of Anar Devi, as such, he had to file a complaint case based on which the aforesaid Sour Bazar P. S. Case No.347 of 2020 came to be registered. The learned counsel further submits that wife was never falsely implicated a person, who has not killed her husband. It is further submitted that Anar



Devi in the F.I.R. has very clearly stated that deceased was not the uncle of the informant of the present case.

It is next submitted that the trial in the present case has commenced and there are 18 prosecution witnesses and Anar Devi was examined as PW-3 (Annexure-5 to the supplementary affidavit) and she has very clearly stated that it was this informant, who committed the occurrence that is the murder of her husband. The learned counsel submits that when wife is specifically stating that her husband was killed by the informant and not by the petitioner, then why keeps the petitioner behind bar. It is also submitted that in the event of acquittal how his period of incarceration would be compensated and in the event, if petitioner ultimately is convicted, he will serve the sentence.

The learned A.P.P. for the State opposes the bail application.

Considering the fact that the petitioner is in custody, he is a person with clean antecedent, charge-sheet has been submitted in the case and taking into consideration the submissions made by the learned counsel for the petitioner, the petitioner, above-named, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs. 10,000/- (Rupees Ten



Thousand) with two sureties of the like amount each to the satisfaction of learned Court below where the case is pending in connection with Sour Bazar P. S. Case No.309 of 2020.

However, if the learned Court below comes to a conclusion that after his release, the petitioner is trying to delay the trial in any manner, the learned Court below shall forthwith cancel his bail bonds after recording reasons and will take all coercive steps to take back the petitioner behind the bars.

The instant application stands allowed.

(Satyavrat Verma, J)

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