

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67200 of 2022**

Arising Out of PS. Case No.-23 Year-2021 Thana- SHASTRINAGAR District- Patna

Aryan Jaiswal @ Munchun @ Bawaa @ Abhayanand S/o Krishna Prasad
Jaiswal R/o Village- Ghansurpur, P.S.- Shalimpur, Distt- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Madhukar Anand, Advocate

For the Opposite Party/s : Ms. Veena Kumari Jaiswal, APP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER**

2 23-12-2022 Heard learned counsel appearing on behalf of the
petitioner and learned counsel appearing on behalf of the State
through virtual Court proceedings.

Let the defect(s), if any, be removed within a period of
four weeks from today.

The petitioner seeks bail in connection with Shastrinagar
P.S. Case No. 23 of 2021 registered for the offence under Sections
302 and 120(B) of the Indian Penal Code and under Section 27 of the
Arms Act.

The accused/petitioner is not named in the F.I.R. and is in
custody since 11.07.2021.

The allegation against the petitioner is to commit murder
of brother of the informant alongwith other co-accused persons, by
causing fire arm injuries, who died during the course of treatment in
Paras hospital, Patna.



Learned senior counsel, Mr. P.N. Sahi while appearing on behalf of the petitioner submitted that the name of petitioner appears on the basis of confessional statement of co-accused Ritu Raj, in furtherance of which no incriminating material recovered/surfaced during course of investigation, which may connect this petitioner, *prima facie*, with present set of occurrence/murder. It is also pointed out that even from the CCTV footage, petitioner cannot connected with present occurrence for the reason that the face of persons are not appearing visible. It is also pointed out that the CCTV footage is showing the different roads of Patna, not about the place of occurrence and, as such, having no bearing over the merit of this case. While travelling over the argument, learned senior counsel further submitted that said electronic evidence can not be taken into consideration, as no mandatory certificate, as required under Section 65(B) of Indian Evidence Act was obtained. It is also pointed out that petitioner involved in 4 cases out of which, he is on bail in 2 cases, where due to suspicion arises out of said criminal antecedents, petitioner implicated in present case also for no connecting reason. While concluding the argument, it has been submitted that investigation has been completed, for which, charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP, while opposing the prayer of bail, fairly conceded that petitioner is not named in F.I.R.



Considering the facts and circumstances as mentioned above, as no incriminating material/surfaced against petitioner, where face of persons are also not clear from CCTV footage coupled with the fact that charge-sheet has already been submitted, where petitioner is in custody since 11.07.2021, let the petitioner, above named, is directed to be released on bail in connection with Shastrinagar P.S. Case No. 23 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-IX, Patna, Sadar/concerned court, subject to the condition as mentioned under Section 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

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