

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13895 of 2022

Arising Out of PS. Case No.-82 Year-2020 Thana- DIGHA District- Patna

BHIM @ BHIMA @ SHATRUDAN KUMAR SON OF UMASHANKAR
PRASAD R/O VILLAGE- PATIPUL, P.S.- DIGHA, DISTRICT- PATNA

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Arvind Kumar, Advocate

For the Opposite Party/s : Ms.Dr. Indihar Kumari, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

9 10-01-2023 Heard the learned counsel for the petitioner
and the learned APP for the State.

The petitioner seeks regular bail in connection with Digba PS case no. 82 of 2020 instituted for the offences punishable under Sections 302/34 of the Indian Penal Code and Section 27 of Arms Act.

The case of the prosecution, according to the informant namely Shambhu Rai, is that he received information on 13.02.2020 at about 9 am in the morning that three unknown miscreants riding on a motorcycle have fired upon the son of the informant, after he had dropped his children at the School and was crossing the ditch (nala), situated under Digha Police Station near Paper Board Colony.



It is alleged that the said occurrence had taken place at about 8 am in the morning. The informant had then gone to the PMCH hospital, where he found that his son had been shot on the head by firearm, however, subsequently, the son of the informant died during the course of treatment.

The learned counsel for the petitioner submits that the petitioner is innocent, has been falsely implicated in the present case and he is languishing in custody since 05.07.2021. The petitioner is stated to be an accused in two other criminal cases. The learned counsel for the petitioner has further submitted that the petitioner is not named in the FIR, the name of the petitioner and other co-accused persons have transpired in the present case on account of confessional statement made by the co-accused persons and the person who has made confession has already been granted bail by a co-ordinate Bench of this Court and in fact, one co-accused person namely Jugnu @ Sonu Kumar has also been granted the privilege of anticipatory bail by a co-ordinate Bench of this Court vide order dated 22.03.2021, passed in Cr. Misc. no. 31944 of 2020. It is also submitted that some other co-accused persons have already been granted the privilege of bail by co-ordinate Benches of this Court vide orders dated



13.01.2022 and 13.07.2022, passed in Cr. Misc. no. 48313 of 2021 and Cr. 36076 of 2022, respectively.

Per contra, the learned APP for the State has vehemently opposed the prayer for bail and has submitted by referring to the case diary that the case of the co-accused person namely Juganu Kumar and that of the petitioner stand on a different footing. It is also submitted that though on the basis of confessional statement made by co-accused Santosh Kumar, the name of all the accused persons including the petitioner has transpired in the present case, however, the said Santosh Kumar has referred to the said Juganu Kumar to be a person who has acted as a leader in the said occurrence and as far as co-accused person namely Parmeshwar Kumar is concerned, he is stated to have played the role of planner, whereas, as far as the petitioner is concerned, it has been directly and explicitly alleged that the petitioner had fired on the head of the deceased and thrown his body and motorcycle in the ditch and only thereafter, the body and the motorcycle was recovered as also the injury found on the person of the deceased is exactly similar to what has been disclosed by the said Santosh Kumar in his confessional statement. It is thus submitted that the confessional statement of the co-accused



person namely Santosh Kumar stands supported by the subsequent events and moreover, the statement of the daughter of the deceased along with the CCTV footage, the location of the petitioner at the time of occurrence, all cumulatively point out towards the guilt of the petitioner and his complicity in the alleged crime.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the parties and taking into account the materials available on record as also considering the materials available in the case diary, this Court finds that the aforesaid submissions made by the learned APP for the State, on the basis of the materials available in the case diary, definitely depicts that there are ample materials to *prima facie* show that the petitioner had killed the deceased by firing gun shots on him, hence, considering the fact that the petitioner is directly involved in commission of a gruesome murder of the deceased, I am not inclined to grant bail to the petitioner, thus, the present petition stands dismissed.

It is needless to state that the case of the co-accused persons who have been granted bail by co-ordinate Benches of this Court are clearly distinguishable from the case of the



petitioner herein, who is the main assailant and moreover, the co-accused person namely Santosh Kumar was granted bail, after his prayer for bail had been rejected earlier on two occasions, on the ground that he was languishing in custody since 18.02.2020 and the Court, *in seisin* of his case, had made an observation on an earlier occasion, while rejecting his prayer for grant of bail that in case, there is no progress in the trial, he shall be at liberty to renew his prayer for bail after six months.

(Mohit Kumar Shah, J)

rinkee/-

U		T	
---	--	---	--

