

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21180 of 2023**

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

Jai Shankar @ Pushkar @ Chotu @ Baua Son of Late Prem Prakashdhari @
Prem Prakash Dhari R/O Bankmar Colony Munna Chak, Ps- Patrakar Nagar
Dist- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. P.N. Shahi, Sr. Advocate
	:	Mr. Madhukar Anand, Advocate
	:	Mr. Shubham Kumar Singh, Advocate
	:	Mr. Amit Anand, Advocate
	:	Mr. Deep Shekhar, Advocate
For the Opposite Party/s	:	Mr. Bharat Bhushan Gautam, Advocate
	:	Mr. Ansul, Advocate

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

5 15-09-2023 Heard learned senior counsel appearing on behalf of the
petitioner and learned counsel appearing on behalf of the State.

The petitioner seeks bail in connection with Sessions
Trial No. 519 of 2021 arising out of 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 05.04.2021.

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 be 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 and moreover, observation in the order of learned trial court regarding recovery of Apache motorcycle bearing registration no. BR07AN9432 on the instance of the petitioner is an error of recording, rather same appears to be recovered on the basis of confessional statement of co-accused Ritu Raj. This fact is averred in Para-27 of present petition on affidavit also. While concluding the argument, it has been submitted that petitioner found involved in one more criminal case, where he is on bail and moreover, investigation has been completed, for which, charge-sheet has been submitted, as such, there is no chance of



tampering with the evidence.

Learned APP duly assisted by learned counsel Mr. Ansul appearing for the informant, while opposing the prayer of bail, fairly conceded that petitioner is not named in F.I.R. Fact regarding recovery as submitted above by learned senior counsel for the petitioner also not disputed by learned counsel for the informant.

Considering the facts and circumstances as mentioned above, as no incriminating material including alleged motorcycle was recovered/surfaced against petitioner, where face of persons are also not appears visible from CCTV footage coupled with the fact that charge-sheet has already been submitted, where petitioner is in custody since 05.04.2021, accordingly, the petitioner, above named, is directed to be released on bail in connection with Sessions Trial No. 519 of 2021 arising out of 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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