

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31366 of 2023

Arising Out of PS. Case No.-92 Year-2022 Thana- MANSURCHAK District- Begusarai

SUPRABHAT @ SUDHANSHU KUMAR JHA Son of Sri Rupesh Ranjan @
Sachchidanand Jha Resident of village - Dhakjari, P.S. - Mansoorchak, Distt. -
Begusarai

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mrs. Vaishnavi Singh, Advocate
For the Opposite Party/s	:	Mr. Jitendra Kumar Singh, APP
For the Informant	:	Mr. Sunil Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 21-06-2023 Heard Mrs. Vaishnavi Singh, learned counsel for the

petitioner, Mr. Sunil Kumar, learned Counsel for the informant

and Mr. Jitendra Kumar Singh, learned APP for the State.

The petitioner is an accused in connection with
Mansoorhcak P.s. Case No. 92 of 2022 registered for the
offences under sections 302, 120(B) and 34 of the Indian Penal
Code and section 27 of the Arms Act lodged on 19.10.2022 by
the informant, Anoj Kumar Jha.

The prosecution story in brief is that one Anoj Kumar
Jha lodged written report addressed to the Officer In charge of
Mansoorchak Police Station stating therein inter-alia that on
18.10.2022 in the evening his brother, Rajesh Kumar Jha has



gone to Mansoorhcak Bazar and did not return in the night. In the morning, they started searching him. In the meantime, Chandan Mahto, his staff came running at 7:40 A.M. to his house and informed that in the preceding night at about 10:00 P.M. Rajesh Jha was heavily intoxicated and was about to go to his house from Mansoorchak. As he was talking with Pankaj Jha who asked him to come at Chimni (brick kiln) and thereafter, he alongwith his master went to the 'Chimni' but there Pankaj Jha, Rohit Jha, Suprabhat @ Sudhanshu Jha and Gulu Rai asked him to leave the said place and they stated his master that his time is over and Rajesh Jha took out pistol and fired on him as as result of which he fell down. The aforesaid persons also chased him but any how he managed to escape and came to house.

His mobile also lost somewhere but due to fear he did not came out from the house and in the morning he came. Thereafter, informant further alleged that immediately they gave information to the police and went to 'Chimni' where they found him lying dead and thereafter police came and took the dead body for post-mortem and after cremation the present FIR was lodged.

Learned Counsel for the petitioner has taken this Court to the FIR to show that admittedly, the alleged occurrence



took place on 18.10.2022 in the night. The staff of the deceased, Chandan Mahto claims himself to be an eye witness, he takes around 10 hours to disclose the alleged killing of the informant's brother to him who takes another 15 hours to finally lodge the FIR at 10:45 P.M. on 19.10.2022. This further was done only after the post-mortem was conducted and the mortal remains were consigned to flames. She as such, submits that such delay was deliberate to implicate the innocent persons which includes the petitioner herein.

Learned Counsel for the informant, on the other hand, submits that Chandan Mahto was the staff of the deceased who was present at the place of occurrence and he is witness to the entire episode including the opening of the fire by the accused persons which includes the petitioner herein.

So far as the delay is concerned, learned Counsel submits that Chandan Mahto was in so much of fear that he chose to spend his night at home and only in the morning, he disclosed this fact to the brother of the deceased (informant herein). It is his further submission that thereafter the post-mortem took place and the dead body was cremated and he lodged the present FIR.

Learned APP for the State although opposes the



prayer for bail concedes the fact that there has been some delay in the lodging of the FIR when an eye witness was present at the place of occurrence.

Taking into account the aforesaid facts, this Court finds force in the submission put forward by the learned Counsel for the petitioner. When there was the staff of the deceased present at the place of occurrence and further by their own narration he had seen the occurrence and further the informant came to know about the killing of his brother at 7:30 A.M. in the morning on 19.10.2022, why this delay of 15 hours in finally lodging the FIR.

Taking into account the aforesaid fact as also that the petitioner is only 19 years of age and has no criminal antecedent and is in custody since 23.11.2022 (as stated in paragraph-21 of the bail application), this Court is inclined to grant him privilege of bail.

Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of like amount each to the satisfaction of the learned Judicial Magistrate, 1st Class, Begusarai in connection with Mansoorchak P.S. Case No. 92 of 2022, subject to the following conditions-:



(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his/her *bona fide*;

(ii) the petitioner shall appear on each and every date before the Trial court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial court itself;

(iii) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of his bail bonds;

(iv) the petitioner shall desist from committing any criminal offence again failing which the State shall be at liberty to take steps for cancellation of the bail bonds.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

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