

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31386 of 2022

Arising Out of PS. Case No.-2 Year-2019 Thana- RAJPUR District- Buxar

Md Aftab Alam @ Aftab Ansari Son of Mujtaba Ansari R/O Village-
Mangraon @ Mangraw, P.S.- Rajpur, District- Buxar. Petitioner/s
Versus

The State of Bihar Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vikram Deo Singh, Advocate.
For the Opposite Party/s : Mr. Dilip Kumar No. 1, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 01-02-2023 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

Heard Mr. Vikram Deo Singh, learned counsel for the petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Rajpur P.S. Case No. 02 of 2019, registered for the offences punishable under Sections 302/34 of the Indian Penal Code and Section 37 of the Arms Act.

The prosecution case is based on a written report filed by the informant alleging therein that on 01.01.2019 at around 01:30 pm, while the informant was going to Mangraw and as soon as he reached near Pithari More, he saw that his elder brother Saddab Hussain (deceased) was coming from his motorcycle, in the meantime Md. Aftab Ansari and Md. Mehtab



Ansari came there on another motorcycle and Md. Mehtab Ansari caught hold the collar of the elder brother of the informant and fired bullet on his head. It has further been alleged that when the brother of the informant fell down accused Mehtab Ansari again fired another shot and both of them fled away.

Learned counsel appearing on behalf of the petitioner submits that from the FIR, it is evident that specific allegation of firing has been leveled against Mehtab Ansari and no allegation of any overt act has been leveled against the petitioner, save and except he was accompanying co-accused Mehtab Ansari on his motorcycle. He further submits that in fact there is no eyewitness to the alleged occurrence, however, only on account of the fact that 10-15 days earlier both the accused persons had threatened the deceased on account of the fact that the accused and the deceased were in affair with the same girl, which was opposed by the accused persons. He further submits that so far as Mehtab Ansari is concerned, he has been declared juvenile and later on allowed bail by a Co-ordinate Bench of this Court in Cr. Rev. No. 1176 of 2019 vide order dated 31.01.2020, the copy of which has been annexed as Annexure 2 to the bail application. He next submits that since the petitioner



was pursuing remedy before this Court in anticipatory bail and as such delay has occurred, however, he surrendered after the proclamation having been made. He lastly submits that the petitioner having fair antecedent, is in custody since 15.03.2022.

On the other hand learned APP for the State vehemently opposes the bail application and submits that the accused persons were carrying common object to kill the deceased and this petitioner was accompanying Mehtab Ansari, who is non-else but his own brother and his complicity cannot be denied. He further submits that in the impugned order the learned court below has stated that it is the petitioner, who had fired over the deceased and as such there is contradiction in the FIR as well as in the impugned order, which is also required to be verified. On a query made by this Court, he fairly submits that in the FIR as well as in the further statement, the informant has categorically stated that it is Mehtab Ansari, who fired upon the deceased.

Regard being had to the submissions made on behalf of the parties and considering the fact that specific allegation of firing has been leveled against the Mehtab Ansari, who has been later on found juvenile and has been allowed bail and so far as the petitioner is concerned, save and except the allegation that



he was accompanying the co-accused, there is no allegation of any overt act and moreover the petitioner having fair antecedent, is in custody since 15.03.2022 and now the investigation of the crime is already complete and the charge-sheet has been submitted, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Buxar in connection with Rajpur P.S. Case No. 02 of 2019, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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