

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33250 of 2022

Arising Out of PS. Case No.-165 Year-2020 Thana- BOCHAHAN District- Muzaffarpur

SOM KUMAR @ SHAM KUMAR @ SHAM KUMAR YADAV @ SHYAM
KUMAR YADAV S/o Late Arjun Yadav R/o village- Gera Badi, Jurabganj,
P.S.- Korha, District- Katihar, Bihar

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr. Advocate
	:	Mr. Vijay Anand, Advocate
For the Opposite Party/s	:	Ms. Sangita Sharma, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

4 23-01-2023 Heard the learned counsel for the petitioner and the
learned APP for the State.

The petitioner seeks regular bail in connection with Bochahan PS case no. 165 of 2020 instituted for the offences punishable under Sections 302, 120(B)/34 of the Indian Penal Code and Section 27 of Arms Act.

The case of the prosecution in brief, according to the informant, is that he got information on 01.07.2020 at about 11.30 hours that his uncle had been shot dead, whereafter he had gone to the S.K.M.C.H. Hospital and came to know that one C.S.P. Operator was going on his Scooty and in the meantime, two unknown accused persons had intercepted him and had tried to snatch the Scooty in question, whereupon the uncle of the



informant had arrived there and had intervened with a view to resolve the conflict and in the scuffle, which had ensued, one of the unknown accused person had fired on the uncle of the informant, resulting in his death.

The learned Senior counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in the present case. It is further submitted that the petitioner was arrested in one another case on 07.08.2021 and then he has been remanded in the present case only on 07.02.2022 and is languishing in custody since then. It is also submitted that there is no eye- witness to the said occurrence and instead, one Ashok Pandey has claimed that after he got information that some accused persons have been apprehended and are in custody at the concerned police station, he arrived there and recognized the petitioner to be the person who had shot dead the uncle of the informant, however, the fact is that the petitioner was in custody of the police only on 07.08.2021, hence the factum of the said Ashok Pandey recognizing the petitioner on 10.08.2021, on a day when the petitioner was not in police custody, belies the claim of the said Ashok Pandey, to have recognized the petitioner and the fact remains that the petitioner has been falsely implicated in the present case.

Per contra, the learned APP for the State has



vehemently opposed the prayer for bail.

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 those available in the case diary, this Court finds that no test identification parade has been held so as to connect the petitioner with the alleged crime and the story of one Ashok Pandey recognizing the petitioner to be the assailant, and that too at the police station, suffers from surmises and conjectures, hence, I deem it fit and appropriate to direct for release of the petitioner on bail, immediately upon framing of charge by the learned trial court, subject to such conditions as may be deemed fit and appropriate to be imposed by the learned court of Judicial Magistrate, 1st class, Muzaffarpur (East) in connection with Bochahan PS case no. 165 of 2020.

The present petition stands disposed off with the aforesaid observations and directions.

(Mohit Kumar Shah, J)

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