

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45332 of 2022

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

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RITU RAJ Son of Sri Manoranjan Kumar Resident of Road No.- 2, Adarsh
Colony, Khemnichak, P.S.- Ram Krishna Nagar, District - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Nandeshwar Singh Son of Shivjee Singh Resident of village - P.O.- Sabri
Boxzee, P.S.- Jalalpur, District - Chhapra.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. P. N. Shahi, Sr. Advocate

For the Opposite Party/s : Mr.Md. Mushtaque Alam

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 27-07-2023 Heard Mr. P. N. Shahi, learned senior counsel for the

petitioner; learned APP for the State and Mr. Ansul, learned

counsel for the opposite party no. 2.

2. This application is filed for quashing the order
dated 20.06.2022 by which learned Additional Sessions Judge-
IX, Patna has taken cognizance against the petitioner's
application filed under provisions of Section 227 of the Code of
Criminal Procedure for discharging in connection with Sessions
Trial No. 519/2021, arising out of Shastri Nagar P.S. Case No.



23/2021 registered under Sections 302, 120(B) of the Indian Penal Code and Section 27 of the Arms Act.

3. As per prosecution, informant gave his fardbeyan on 12.01.2021 at Paras Hospital which was recorded by S.I. of Police of Shastri Nagar Police Station told that his sister-in-law (*Bhabho*) informed him on phone that his younger brother was surrounded by 5-6 unknown persons near Puniachak and all of them made indiscriminate firing in which he was injured and taken to Paras Hospital by police for treatment in which he died. On the basis of aforesaid fardbeyan a FIR vide Shastri Nagar P.S. Case No. 23/2021 was registered.

4. By the impugned order, the discharge application of the petitioner has been rejected. It has been submitted by learned senior counsel for the petitioner that there is no evidence against the petitioner and therefore he should be discharged. He further submits that the recovered pistol is doubtful because in the seizure list it is marked as USA made and during FSL report it is found to be locally made pistol. He also submits that the petitioner is identified on the basis of CCTV footage. He submits that face is not identified in the footage and there is no eye-witness of the case and the petitioner cannot be prosecuted on the basis of confessional statement.



5. Learned APP for the State and learned counsel for the opposite party no. 2 have opposed the application. They have submitted that at the stage of framing of charge the trial court has to see that whether any prima facie case is found against the petitioner or not and if there is no strong prima facie case, the discharge application cannot be allowed.

6. I have considered the submission of learned senior counsel for the petitioner and learned APP for the State and learned counsel for the informant. I have also gone through the records of the case and the impugned order. From reading of the impugned order it is clear that material which have been collected during investigation have been considered by the trial court and thereafter the trial court has come to a finding that strong *prima facie* case is made out against the petitioner, this application has no merit in view of the law laid down by Hon'ble Supreme Court in the case of ***State of Bihar vs. Ramesh Singh 1977 SCC (4) 39***, this application is dismissed.

7. it is expected that the trial of the petitioner is expedited within a year. The District Judge, Patna and Senior Superintendent of Police, Patna will see that witnesses are produced regularly.

8. Let a copy of this order be communicated to the



District Judge, Patna and Senior Superintendent of Police, Patna
for its compliance forthwith.

(Sandeep Kumar, J)

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