

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49388 of 2022

Arising Out of PS. Case No.-451 Year-2021 Thana- RAJIVNAGAR District- Patna

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Bheem Kumar Yadava @ Dilbar @ Bheem Singh S/O Munna Singh Resident
of village- Bhagwatipur, P.S.- Udwant Nagar, District- Bhojpur (Ara).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance:

For the Petitioner/s : Mr. Binod Kumar Sinha, Advocate

For the Opposite Party/s : Mr. Jitendra Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

4 17-03-2023 Let the defects, if any, pointed out by the office be removed within four weeks from the date of this order, failing which the matter be listed again under the appropriate heading for necessary action.

Heard learned counsel for the petitioner and the learned APP for the State.

Petitioner seeks regular bail in connection with Rajeev Nagar P.S. Case No. 451 of 2021 registered for the offences punishable under Sections 307, 120(B) and 34 of the Indian Penal Code and Section 27 of Arms Act and later Section 307 of IPC was amended as 302 of IPC.

As per the prosecution, the informant's wife was shot by some unknown miscreants at the alleged place.

The main submissions advanced by learned counsel for petitioner are that the FIR was registered against unknown

persons and petitioner was dragged in this case mainly on the basis of mobile surveillance as well as of his confessional statement and as per the prosecution, on the basis of petitioner's statement given before the police, the motorcycle which was used allegedly in the crime was recovered and as per the seizure list the seized motorcycle was red in colour and as per the prosecution the same was used in the crime by the petitioner and co-accused person while firing at the deceased but as per the FIR, the colour of the alleged motorcycle which was used in the crime was black and the said contradiction with regard to the colour of the alleged motorcycle completely casts a serious doubt in the allegation levelled by the prosecution against the petitioner and the confessional statement given by the petitioner in police custody is not admissible as per Section 26 of the Indian Evidence Act and the alleged recovery of motorcycle also goes against the prosecution as the same does not get corroboration from the allegation of the FIR. Further submission is that against the petitioner there is criminal antecedent of one case in which he was tried as a juvenile and he has been acquitted in the said case and in the instant matter he has been languishing in jail for the last one year and five months. Further submission is that the informant is not an eyewitness of the

alleged occurrence and his daughter who is stated to be the eyewitness has not identified the petitioner and against the petitioner the investigation has been completed.

Learned APP for the State has opposed the bail prayer.

In view of the facts, as stated above and mainly taking into account the petitioner’s young age and his custody period as well as the fact that there is no direct evidence to connect the petitioner to the alleged crime as stated above, in my opinion, it is a fit case for bail to the petitioner. Accordingly, let the petitioner named above be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of concerned Court in connection with Rajeev Nagar P.S. Case No. 451 of 2021.

(Shailendra Singh, J)

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