

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70445 of 2022

Arising Out of PS. Case No.-326 Year-2017 Thana- CHAKIA District- East Champaran

Kush Nandan Kumar Singh Son Of Subh Narayan Chaudhur @ Subh Narayan Singh R/V- Ghangati, P.S.- Chakia, District- East Champaran At Present Ward No. 18, Chhota Pareua Raxaul, P.S.- Raxaul, District- East Champaran

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr.Ram Adya Singh
For the Opposite Party/s :	Mr.Bharat Lal
	Mr. Sanjay Kr. Tiwary

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 22-02-2023 Heard learned counsel for the petitioner, informant and learned Additional Public Prosecutor for the State.

Learned counsel for the informant has filed the counter affidavit today in the Court.

Let the same be kept on record.

The petitioner is apprehending his arrest in a case registered for the offence punishable under Sections 302, 303/34 of the Indian Penal Code.

Vide order dated 04.10.2021, regular bail application of the petitioner was rejected and a directed was also given to the learned court below to conclude the trial within a period of one year but trial is not concluded upto now.

Allegation against the petitioner and other accused



persons is of firing on the deceased causing his death.

Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. He submits that the postmortem report has not corroborated to the allegation made in the FIR. He submits that charge has been framed in this case and two witnesses have been examined. He further submits that petitioner is languishing in judicial custody since 07.02.2018.

Learned APP for the State and learned counsel for the informant oppose the prayer for bail and submit that for last four days, the prosecution witness namely Sangita Kumari has appeared before the trial court, who happens to be daughter-in-law of the deceased. The petitioner having intention to delay the trial has purposely challenged the identity of the witness on the ground that the name of the witness mentioned in the charge-sheet is different than the name mentioned in the AADHAR. When the witness appeared before the court, the witness besides other co-accused made protest before the learned trial judge regarding identity of the witness and also sought time to file rejoinder. The accused persons who facing trial including the petitioner are next door neighbour and agnates of the deceased, therefore, they are acquainted with the fact that the said witness



having two names the same has been mentioned differently in the charge sheet and the identity proof whereas her husband's name and address being the same.

Considering the facts and circumstances of the case and the period of custody, let the above named petitioner, be enlarged on bail on furnishing bail bond of Rs.25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Sessions Trial No. 345 of 2018 arising out of Chakia P.S. Case No. 326 of 2017, subject to the conditions:

(1) that one of the bailors will be a close relative of the petitioner, who will give an affidavit giving genealogy as to who he is related with the petitioner. He will also undertake to inform the court if there is any change in the address of the petitioner.

(II) that the petitioner will be well represented on each and every date fixed in the case and if he fails to do so on two consecutive dates his bail bonds shall be liable to be cancelled.

(III) that the petitioner will mark his attendance in the local police station in the first week of every month till conclusion of trial, failing which the prosecution will be at



liberty to move cancellation of his bail bond.

(IV) that the bailor shall also stated on affidavit that he will inform the Court concerned if the petitioner is implicated in any other case of similar nature after his release in the present case and thereafter the Court below will be at liberty to initiate proceeding for cancellation of bail on the ground of misuse.

(Anjani Kumar Sharan, J)

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