

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73626 of 2022

Arising Out of PS. Case No.-120 Year-2022 Thana- MUSRIGHRARI District- Samastipur

Nitin Chaudhary S/O Sri Ram Bharosh Chaudhary R/O Village Harpur Aloth,
Ward No- 7, P.S- Musrigharari, District- Samastipur

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Ajay Kumar Thakur, Advocate
For the Opposite Party/s :	Mr. Akshay Lal Pandit, APP
For the Informant :	Mr. Basant Kumar Choudhary, Sr. Advocate

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 04-05-2023 Heard Mr. Ajay Kumar Thakur, learned counsel for the petitioner, Mr. Basant Kumar Choudhary, learned senior counsel appearing on behalf of the informant as well as Mr. Akshay Lal Pandit, learned Additional Public Prosecutor for the State.

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

Petitioner seeks bail who is in custody since 11.07.2022 in connection with Musrigharari P.S. Case No. 120 of 2022, F.I.R. dated 10.07.2022 for the offences punishable under Sections 302/34 of the Indian Penal Code and Section 27 of the Arms Act.



According to prosecution case, the petitioner along with other accused persons surrounded the husband of the informant while they were sitting at the darwaja and the petitioner, namely, Nitin Choudhary took out pistol from his waist and fired at the husband of the informant and subsequently he died during treatment.

Learned counsel for the petitioner submits that petitioner has clean antecedent and he has falsely been implicated in the present case. He further submits that due to admitted land dispute between the parties, the petitioner has falsely been implicated in the present case. He further submits that the statement of the son of the informant does not supports the F.I.R. version and it appears from the F.I.R. that the informant is not the eye witness of the alleged occurrence. He further submits that the place of occurrence does not suggests that any occurrence has taken place and no blood was found at the place of occurrence. He further submits that the petitioner is nephew of the deceased. He further submits that the date of occurrence as alleged in the F.I.R. is 06.07.2022 and the information was also given to the police on the same day but the present written report was lodged on 10.07.2022 i.e., after the death of the deceased. As per the F.I.R., the alleged occurrence



has taken place at the *darwaja* of the house of the informant and during investigation, several witnesses have stated that they have heard the sound of firing from inside the house and arms have also been recovered from the possession of the son of the deceased who is also the son of the informant. He further submits that postmortem report reveals that the doctor has found the cause of death due to septic shock as a result of hypostatic pneumonia and thus the cause of death is not fire arm injury. He further submits that the police after investigation submitted the charge sheet against the petitioner. The petitioner is in custody since 11.07.2022.

The learned senior counsel appearing on behalf of the informant as well as learned Additional Public Prosecutor have vehemently opposed the prayer for bail of the petitioner and submits that there is direct allegation against the petitioner that he fired upon the deceased and sufficient material has come during investigation to suggest the involvement of the petitioner in the present occurrence.

Considering facts that the petitioner has clean antecedent, there is admitted land dispute between the parties, informant is not the eye witness of the alleged occurrence and the statement of the son of the informant which doesn't supports



the F.I.R, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Sub Divisional Judicial Magistrate, Samastipur in connection with Musrigharari P.S. Case No. 120 of 2022, subject to the following conditions:-

1. Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

2. If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

3. And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of



bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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