

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33801 of 2024

Arising Out of PS. Case No.-139 Year-2023 Thana- AGAMKUAN District- Patna

Sunny Kumar, Son of Late Jai Kishun Yadav, Resident of Village -Bari
Pahari, P.S.- Agamkuan, District - Patna, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Rakesh Kumar, Advocate
For the Opposite Party/s	:	Mr. Nitya Nand Tiwary, Advocate
For the Informant	:	Mr. Ram Pravesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 26-07-2024 At the outset, learned Advocate for the petitioner seeks permission to make necessary correction with regard to the period of custody in paragraph no. 4 of the bail application.

2. Permission is accorded.

3. Let necessary correction be done in course of the day.

4. Heard Mr. Rakesh Kumar, learned Advocate appearing on behalf of the petitioner and the learned Additional Public Prosecutor for the State. The informant is represented through Mr. Ram Pravesh Kumar, learned Advocate.

5. The application for grant of bail to the petitioner who is in custody in connection with Sessions Trial No. 1191 of 2023 arising out of Agamkuan P.S. Case No. 139 of 2023



registered for the offence punishable under Sections 302 and 120(B) of the Indian Penal Code and Section 27 of the Arms Act.

6. Based upon the written report the prosecution alleges that the informant is engaged in transport business with his elder brother namely Kripa Shankar Singh. On the alleged date of occurrence at 09:00 pm while the elder brother alongwith his friend went to Bairiya bus stand on his Bullet Motorcycle, all the FIR named accused persons surrounded him and made indiscriminate firing causing his death. Specific allegation has been levelled that co-accused Raushan Sharma, Anand Prakash @ Mukhiya Jee, Ram Pravesh Mahto and Satyendra Singh fired from their pistol on the brother of the informant. It is also alleged that when the informant rushed to save his brother, the petitioner alongwith Shyam Kumar and Munna Yadav fired upon him.

7. Learned Advocate appearing on behalf of the petitioner contended that the occurrence took place on 08.02.2023 at about 11:05pm, whereas the first information report was lodged on 09.02.2023 at about 01:45 hours. Soon after the occurrence the inquest report was prepared and post mortem has been done, but at that point of time, neither the fard



beyan of the informant was recorded nor any FIR has been lodged. However, later on after a careful deliberation, the present FIR has been lodged. Even the narratives of the FIR do not suggest that the petitioner is the person who fired upon the deceased, causing any injury. The specific allegation of causing fire arm injury has been leveled against other co-accused persons. It is also alleged that the petitioner and others fired upon the informant but he did not sustain any injury. It is next contended that be that as it may now the charges have been framed and the petitioner undertakes that he will fully cooperate in the proceeding of the Court.

8. On the other hand, learned Additional Public Prosecutor for the State as well as informant vehemently opposed the bail application and submits that apart from the fact that the petitioner has actively participated in the crime, he also made indiscriminate firing over the informant. However, fortunately he did not sustained any injury. It is also contended that the petitioner bears one criminal antecedent.

9. Regard being had to the submissions made on behalf of the parties and considering the fact that the informant was all along present with the deceased but neither his fardbeyan was recorded nor any FIR was lodged at the time of



preparation of Inquest Report or when the post mortem was conducted, coupled with the fact, the petitioner is not even alleged to cause any firing upon the deceased; now the charges have been framed, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge IIIrd, Patna City, Patna in connection with Sessions trial No. 1191 of 2023 arising out of Agamkuan P.S. Case No. 139 of 2023, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) 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 immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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