

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53195 of 2024

Arising Out of PS. Case No.-27 Year-2024 Thana- MALI District- Aurangabad

Harish Kumar Shekhar @ Tutu Pandey @ Harish Shekhar Son of Shri Kant Pandey Resident of Vill- Pandey Karma, P.S.- Mali, District- Aurangabad.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ramakant Sharma, Sr. Adv. Mr. Nagmani Kumar, Adv.
For the Opposite Party/s	:	Mr.Chandra Bhushan Prasad, APP
For the Informant	:	Mr. N.K. Agarwal, Sr. Adv. Mr. Piyush Tiwari, Adv.

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL ORDER

3 29-10-2024 Heard Mr. Ramakant Sharma assisted by Mr. Nagmani Kumar, learned senior counsel for the petitioner and learned APP for the State as also Mr. N.K. Agarwal, learned senior counsel appearing on behalf of the Informant. Perused the case diary.

2. The petitioner seeks bail in connection with Mali P.S. Case No. 27 of 2024 instituted for the offences under Sections 302 and 120B of the Indian Penal Code and Section 27 of the Arms Act.

3. As per prosecution case, the accusation has been made against the petitioner of firing upon the Informant's husband, causing his death.



4. Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence as alleged against him and has falsely been implicated in the present case due to village politics and previous enmity. He further submits that there is no eye-witness to the alleged occurrence. Even, as per F.I.R., the Informant of this case is also not the eye-witness to the occurrence. He further submits that the date of occurrence is 04.02.2024 but, the Informant has filed the written complaint on 06.02.2024 after cremation of the dead body which creates doubt in the prosecution case. He further submits that the police has prepared three seizure lists. Two seizure lists were prepared on the date of occurrence i.e. on 04.02.2024 but, by that time, the case was not registered against anyone. Thereafter, after two days of occurrence, the Informant lodged the case following which, third seizure list was prepared by the Investigating Officer which also creates doubt in the prosecution case. The inquest was also made on 04.02.2024 i.e. before lodging of the F.I.R. He further submits that the medical report does not support the prosecution case as from the medical report, it appears that the wound is lacerated, caused by hard and blunt substance. There is a non-compliance of Section 100 of the Cr.P.C. which creates a serious doubt in the prosecution case.



The petitioner has no criminal antecedent and is languishing in judicial custody since 01.04.2024 without any rhymes or reason.

5. On the other hand, learned A.P.P. for the State and the Informant have vehemently opposed the prayer for grant of bail to the petitioner, stating that the offence alleged against the petitioner is serious in nature. The police after completion of investigation has submitted charge-sheet under Sections 302/120B of the I.P.C. and Section 27 of the Arms Act. The petitioner is named in the F.I.R. and, hence, he does not deserve bail.

6. Mr. N.K. Agarwal, learned senior counsel, appearing on behalf of the Informant submits that the Informant and her daughter is the eye-witness to the alleged occurrence supported by the postmortem report. He further submits that the charge-sheet has been submitted and the charge has also been framed in this case. He further submits that the trial is expected to be concluded with a period of six months from today.

7. Having considered the rival submissions of the learned counsel for the parties as also after perusing the entire records of the case, this Court finds that there is specific and direct allegation of committing murder of the deceased by causing fire-arm injury. The offence alleged against the



petitioner is serious in nature. The charge has been framed against the petitioner and the trial is going on.

8. Accordingly, the prayer for bail of the petitioner, above named, is rejected at this stage with a direction to the court below to expedite the trial.

(Rudra Prakash Mishra, J)

rishi/-

U		T	
---	--	---	--

