

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63289 of 2024

Arising Out of PS. Case No.-62 Year-2024 Thana- GAYA KOTWALI District- Gaya

Kallu @ Imteyaz Son of Late Md. Nawal @ Late Mohammad Nawal @ Md. Sadique @ Md. Nawal R/V- Village- Panchayti Akhada, Cement Gali, P.S.- Kotwali, Distt.- Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Aryan Singh, Advocate
For the Opposite Party/s	:	Mr. Satyendra Prasad, APP
For the Informant	:	Mr. Priya Ranjan, Advocate
		Mr. Mukesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 20-11-2024 Heard the learned Advocate for the petitioner, learned Advocate for the informant and the learned APP for the State.

2. The petitioner seeks regular bail, who is in custody in connection with Kotwali P.S. Case No. 62 of 2024, registered for the offence punishable under Sections 302 and 120(B) of the Indian Penal Code and Section 27 of the Arms Act.

3. Based upon the *fardbeyan*, the prosecution alleges that on 07.02.2024, at about 01:25 PM, the informant received an information through his villagers that his brother has been shot. On receipt of the information, he rushed to the place of occurrence and took the injured to the hospital; in the way the informant's brother disclosed that the petitioner and *Anna* were



fighting and when he tried to resolve the dispute, the petitioner got infuriated and came out with a pistol and shot the deceased in his chest. The informant also raised suspicion that on account of old enmity, co-accused *Rizu*, *Shahid* and *Chandni Khatoon* got his brother shot dead through *Kallu*.

4. Learned Advocate for the petitioner referring to the FIR primarily contended that the informant is not an eyewitness to the alleged occurrence. The firearm injury sustained over the vital part of the deceased clearly suggest that the deceased was not in a position to narrate the incidence. It is further contended that the entire prosecution story appears to be not reliable, for the simple reason that occurrence took place at 01:25 PM and thereafter, the deceased was taken to one Pilgrim Hospital and from there to A.N.M.C.H., Gaya. However, the post-mortem report conducted at A.N.M.C.H, Gaya reveals that the deceased was brought at 03:15 PM on the same day and the post-mortem commenced at 04:10 PM, which does not inspire confidence that in such a small time, the deceased was taken to different hospitals and post-mortem has also been conducted. It is next contended that so far the recovery of the arm from the possession of the petitioner, which was said to have been used in the crime is concerned, there is no ballistic report, which



suggest that the said arms was used in causing death of the deceased. The deceased was a veteran criminal of the locality and in fact, he was done to death by some unknown criminals, but only on account of previous enmity, the name of the petitioner has been implicated in this case. Now the petitioner has been incarcerated since 10.02.2024, having clean antecedent.

5. On the other hand, learned APP for the State as well as informant vehemently oppose the bail application and drawing the attention of this Court to the different paragraphs of the case diary have submitted that the independent witnesses on hearing *halla*, rushed to the place of occurrence and found that the petitioner was fleeing from the place of occurrence, with the pistol in his hand. The witnesses also disclosed that it is the petitioner, who have caused fatal injury. The post-mortem report has also corroborated the prosecution case.

6. Regard being had to the submissions made on behalf of the parties and considering the nature of allegation of causing death to the deceased by firearm injury, which has also been supported during the course of investigation by the independent witnesses, this Court is not acceded to the prayer of the petitioner.



7. The prayer for bail of the petitioner stands rejected.
8. The learned trial Court is directed to expedite the trial and conclude the same, expeditiously.

(Harish Kumar, J)

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