

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73933 of 2024

Arising Out of PS. Case No.-98 Year-2019 Thana- AHIYAPUR District- Muzaffarpur

Anil Chaubey, S/o Late Vijay Narayan Chaubey @ Vijay Chaubey, R/O
Village- Sadatpur Chaubey Tola, P.S- Kanti, Distt.- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Y.V. Giri, Sr. Advocate
		Mr. Devashish Giri, Advocate
For the Opposite Party/s	:	Mr.Chandra Sen Prasad Singh, APP
For the Informant	:	Mr. Aditya Shankar Prasad, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

- 4 25-10-2024 1. Heard learned senior counsel appearing on behalf of the petitioner, learned APP appearing on behalf of the State and learned counsel appearing on behalf of the Informant, who joined proceedings through video conferencing.
2. The petitioner seeks bail in connection with Ahiyapur P.S. Case No. 98 of 2019 registered for the offence under Sections 324, 326, 307, 302, 120B of the Indian Penal Code and Section 27 of the Arms Act.
3. The accused/petitioner is named in the F.I.R. and is in custody since 23.06.2024.



4. Mr. Y.V. Giri, learned senior counsel appearing on behalf of the appellant submitted that prior lodging to this case, regarding same occurrence Ahiyapur P.S. Case No. 97/2019 and also subsequently, Ahiyapur P.S. Case No. 101/2019 was lodged. It is submitted as regarding same occurrence Ahiyapur P.S. Case No. 97/2019 was already lodged, the present FIR is hit by the provision of Section 162 of the Cr.P.C. It is submitted that the informant projected herself as an eye-witness of the occurrence but same is only out of the suspicion and previous enmity. Mr. Giri further submitted that from Ahiyapur P.S. Case No. 97/2019, which was lodged by the police inspector Shailesh Kumar (Special Task Force, Patna), it appears that the husband of the informant was murdered by one Rohit Kumar, son of Om prakash Yadav, who was killed during police encounter at same place and time by Special Task Force, which was on way to Kolhua area for verification of secrete information regarding functioning of one mini



gun factory. While concluding the argument, Mr. Giri submitted that the deceased was a man of criminal antecedents and he found involved in six heinous offences including the case of murder and kidnapping, whereas he also conceded that petitioner found involved in four criminal cases, where he already acquitted in three cases and only one case i.e. Ahiyapur P.S. Case No. 80 of 2003 is pending against him and moreover, investigation of this case is already concluded, therefore, there is no chance of tampering of witness. With aforesaid submission, it is finally submitted that the petitioner deserves to be enlarged on bail.

5. Mr. Aditya Shankar Prasad, learned counsel for the informant joined the proceedings through Video Conferencing.

6. Learned APP, duly assisted by learned counsel appearing on behalf of the informant, while opposing the prayer of bail submitted that the informant is the eye-witness of the occurrence, where she found



this petitioner to open firing on her husband. It is submitted that the allegation appears fully corroborated with the *post-mortem* report. Learned counsel for the informant also submitted that the petitioner threatened deceased husband of her husband as not to depose as a witness in Pankaj Singh murder's case. It is submitted that this case is not hit by Section 162 of the Cr.P.C. and in support of his submission, learned counsel relied upon the report of Supreme Court as reported in the matter of ***Babubhai Vs. State of Gujarat and Ors. Etc.*** reported as ***[2010] 10 S.C.R. 651.***

7. In view of aforesaid facts and circumstances, without making any comment to faulty investigation, as it appears that the informant of present case, who is none but the wife of the deceased appears to be an eye-witness of the occurrence, where she found petitioner specifically to open fire upon her husband duly corroborated with *post-mortem* report, accordingly the prayer of bail of petitioner is rejected herewith.



8. However, learned trial court is directed to conclude the trial expeditiously in accordance with law preferably within one year.

9. SSP, Muzaffarpur is directed to produce charge sheet witness as and when directed by learned trial court as to conclude trial within aforesaid time period.

(Chandra Shekhar Jha, J)

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