

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1104 of 2024

Arising Out of PS. Case No.-205 Year-2019 Thana- BHORE District- Gopalganj

Raju Singh @ Raju Kumar Singh, son of Late Vidha Singh, resident of
Village - Bhore (Dakshin Tola), Police Station - Bhore, District – Gopalganj.
... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner	:	Mr.Manan Kumar Mishra, Sr. Advocate Mr.Umesh Kumar Singh, Advocate
For the State	:	Mr.Lalan Kumar, APP
For the Informant	:	Mr.Ashhar Mustafa, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

6 05-07-2024 Heard Mr. Manan Kumar Mishra, learned senior

counsel appearing on behalf of the petitioner and Mr. Lalan

Kumar, learned A.P.P. for the State duly assisted by Mr.

Ashhar Mustafa, learned counsel for the informant.

2. Petitioner seeks bail in connection with Bhore P.S.

Case No. 205 of 2019 registered for the offences under

Sections 302, 404, 120B and 34 of the Indian Penal Code

and Section 27 of the Arms Act.

3. The petitioner is named in the First Information

Report and is in custody since 10.04.2023.

4. Allegation against the petitioner is to commit the

murder of brother of the informant alongwith other co-

accused persons by resorting indiscriminate firing using



advance features fire-arm weapon causing multiple fire-arm injuries resulting death of brother of the informant on the spot itself, where occurrence is alleged to be arising out of previous enmities.

5. Mr. Manan Kumar Mishra, learned senior counsel, while appearing on behalf of the petitioner, submitted that petitioner falsely implicated with the present case for the reason that informant, who claimed to be an eye witness of the occurrence, in actual, is not an eye witness rather he was present at some different place during the alleged date and time of the occurrence.

6. In support of submission, learned senior counsel relied heavily upon one Television (T.V.) bite given by the informant to local News Channel saying thereof that he was not available at the place of occurrence, when it took place. In this connection, learned senior counsel submitted that a certificate was issued by the concerned correspondent of GPL Dot News, Gopalganj under Section 65B of the Indian Evidence Act, suggesting authenticity of recording of statement of the informant and in view of same the



genuineness of recording cannot be doubt. It is submitted that to ascertain the correctness of said video clip a Miscellaneous petition was filed before the Judicial Magistrate, 1st Class, Gopalganj praying thereof to ask the informant to give his "voice sample" for its Forensic examination, but on the repeated direction of the learned court, sample for voice test was not made available by the informant which is sufficient to draw a negative presumption regarding his claim to be an eye witness of the occurrence.

7. It is also submitted by Mr. Mishra, learned senior counsel that the F.I.R. of the occurrence was lodged with a delay of nine (9) hours, despite of close availability of police station, which only suggest an afterthought implication on part of the informant. It is further submitted that during course of investigation several accused persons were arrested, who were not named with F.I.R., as co-accused Vishal Singh, Pradeep Singh, Shambhu Singh etc. and they confessed before the police that they have killed the deceased. It appears that out of said confessional statement, nothing appears connecting *qua* this petitioner. It is also



submitted that during investigation, Call Detail Report (CDR), mobile tower location etc. of several accused persons were obtained by the police, but these scientific/electronic evidences are also not suggesting the involvement of the petitioner with occurrence in question.

8. Mr. Mishra, learned senior counsel submitted that petitioner is working at Adarsh Primary Health Centre (APHC), Sisai, Bhore, District – Gopalganj and he was present on duty on the date and time of the alleged occurrence and in support of the same, Medical Officer I/c Dr. Archana Sukla, stated before the police that petitioner was present at APHC, on duty, on 13.06.2019 since 8:00 A.M. to 5:00 P.M. Same also appears supported by attendance register of staffs of APHC.

9. Referring para 186 of the original case diary, it is submitted by Mr. Mishra, learned senior counsel that police failed to find out a conclusion regarding reason for present occurrence and, as such, previous enmities as claimed by the informant is not appears convincing. In this connection, Mr. Mishra also pointed out para 125 of supplementary case



diary and submitted that involvement of this petitioner being named co-accused appears to be one of the conspirator rather than actual participant of crime in question.

10. While concluding argument, Mr. Mishra, learned senior counsel submitted that petitioner found involved in five more criminal cases, where in four criminal cases, he has already been acquitted by the learned trial court and only one case, i.e. Bhore P.S. Case No. 212/2011, is pending for trial. Learned senior counsel submitted that investigation of this case has already been concluded in this case and, as such, now there is no chance of tampering with the evidence.

11. Learned A.P.P. for the State duly assisted by Mr. Ashhar Mustafa, learned counsel appearing on behalf of the informant, while opposing the prayer of bail of the petitioner, submitted that not only informant rather several witnesses of the occurrence claims themselves to be an eye witnesses of the occurrence during the course of investigation while recording their statement under Section 161 of the Code of Criminal Procedure suggesting allegation



as raised through FIR *qua* petitioner. Learned counsel further submitted that the genuineness of the video clip can only be ascertained during the trial. It is pointed out that this petitioner approached Hon'ble High Court for grant of anticipatory bail which was refused on 23.08.2019 vide Cr. Misc. No. 52831/2019, where this Court directed him to surrender before the learned trial court within four weeks, but petitioner did not follow the aforesaid direction and preferred a second anticipatory bail application in the year 2020 which was again rejected vide order dated 07.04.2021 as passed in Cr. Misc. No. 32372/2020. It is pointed out that petitioner thereafter remain absconded and process under Section 83 Cr.P.C. was issued against him. Mr. Mustafa, learned counsel further submitted that consequent upon, police administration constituted one S.I.T. and only thereafter petitioner was arrested from Siwan on 10.04.2023. This is how the presence of petitioner was secured before the learned trial court. It is submitted that despite in custody, he was not extending his support in expeditious trial rather he adopted all such things to delay



the trial and only when learned trial court directed the Superintendent of jail through order dated 20.04.2024 to produce petitioner, only thereafter, charges could be framed against him on 05.06.2024.

12. It is further submitted that mere on the ground of video clip of local news channel, the presence of informant cannot be looked into with tainted glass. It is submitted by learned A.P.P. that prohibited fire-arm was used in committing crime, where post-mortem report shows multiple fire-arm injuries, corroborating with the version of informant. It is further pointed out that the prayer of similarly situated co-accused persons namely, Arun Kumar Mishra and Sanjay Kumar Mishra have already rejected by this Court through Cr. Misc. No. 8487/2022 vide order dated 13.12.2022. Similarly the prayer of one of the co-accused namely, Sri Brij Kishore Singh @ Brij Kishore Singh was also rejected by one of the learned coordinate Bench of this Court through Cr. Misc. 68239 of 2022 dated 05.04.2023.

13. It is further submitted by Mr. Mustafa, learned counsel for the informant that co-accused persons who are



relative of the petitioner lodging in jail threatened to one Manju Devi from jail as not to depose in this case, for which informatory petition was given to SHO, Bhore. Petitioner also specifically threatened the informant Hari Narayan Singh on 23.06.2024 from jail at about 4:10 P.M. through mobile no. 7050200213 and 9546462594 for which a Sanha/ Informatory Petition was lodged with Bhore Police Station. Beside this, several threat was advanced to the informant and his family members from time to time for which informatory petitions were lodged with Bhore Police Station and in such a circumstances granting bail to the petitioner, would only amounting to denial of fair trial.

14. Considering the aforesaid factual and legal submission as allegation is specific against the petitioner to open indiscriminate firing with sophisticated fire-arm upon brother of the informant causing his death on spot which duly appears corroborated with his post-mortem report coupled with the fact that petitioner *prima-facie*, appears advancing threat to the informant and others as not to depose in the present case as a witness, this Court is not



inclined to grant bail to the petitioner.

15. Accordingly, prayer of bail of the petitioner is rejected.

16. However, considering the custody period, learned trial court is directed to conclude the trial by taking this matter on board, on day to day basis so as trial be concluded preferably within three months from the date of receipt of communication of this order.

17. The Superintendent of Police, Gopalganj is directed to produce all the charge-sheeted witnesses as and when directed by the learned trial court for expeditious disposal of trial within a specified time period as directed above.

18. Office is directed to send a copy of this order to Superintendent of Police, Gopalganj for its immediate compliance and to take appropriate steps to secure the presence of witnesses during the trial.

(Chandra Shekhar Jha, J.)

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