

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34346 of 2025

Arising Out of PS. Case No.-202 Year-2024 Thana- GAURICHAK District- Patna

Madan Kumar S/o Rajballabh Ray @ Rajballam Ray R/o vill - Sirapatpur,
P.O. and P.S. - Gopalpur, Distt.- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anshul, Sr. Adv.
Mr. Santosh Kumar, Adv.
For the Opposite Party/s : Mr. Pramod Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 08-10-2025 Heard the parties.

2. The petitioner seeks bail in connection with Gaurichak P.S. Case No. 202 of 2024 registered for the offence under Sections 302, 34 of the I.P.C. and 27 of Arms Act.

3. The petitioner is named in the F.I.R. and is in custody since 06.12.2024.

4. As per FIR, named accused persons open fire one after another total of 3 bullets on head of son of the informant while he attend a meeting called by petitioner and other co-accused persons to settle previous pending criminal cases between them. It is alleged that 5-6 unknown persons were also involved in the occurrence. Informant claimed himself as an eye



witness of the occurrence.

5. Mr. Anshul, learned senior counsel appearing on behalf of the petitioner submitted that though informant claimed himself to be an eye witness of the occurrence but certainly out of certain facts and materials collected during investigation it can be gathered *prima-facie* that his claim as an eye witness of the occurrence is false. In support of his submission it is pointed out by Mr. Anshul that as per FIR the occurrence took place somewhere between 7:00 AM-7:30 AM, whereas as per CCTV installed in the house of petitioner which was collected during course of investigation and mentioned in para 158 of the case diary it can be gathered that the petitioner was at his home between 6:54 AM to 6:59 AM, 7:08 AM to 7:13 AM, 7:13 AM to 7:16 AM and 7:29 to 7:42 AM which is also supported by call detail report (CDR) which is available in para 62 of the case diary. It is also pointed out that these two scientific evidence *prima-facie* creates a doubt that whether informant was eye witness of the occurrence as claimed.

6. Arguing further, it is submitted that admittedly there was inimical terms between the informant family and the family of the petitioner, as the informant's side killed the cousin



of the petitioner prior to this occurrence where the petitioner was the witness for which Sessions Trial No. 164 of 2021 and Sessions Trial No. 1211 of 2022 are pending. It is submitted that the deceased son of the informant was himself a man of criminal antecedent and he was found involved in four criminal cases and having enmities with several persons of the locality. It is pointed out that the son of the informant might be killed by some unknown persons but to settle score into pending criminal case as discussed aforesaid the present false implication was raised by informant claiming to be an eye witness of the occurrence making a specific allegation against petitioner to open fire upon his son. It is pointed out that two another named co-accused were also alleged to fire upon the head of the son of the informant causing total of three bullet injuries though appears corroborated out of *post-mortem* report but same was explained only after going through the dead body as inquest report was prepared much earlier to the lodging of the FIR. In this context it is submitted that FIR was lodged at 7:30 PM, whereas inquest report was prepared on 11:57 A.M. in the morning.

7. Arguing further Mr. Anshul submitted that during



investigation the confessional statement of one co-accused Chhotu Kumar and one Suraj Kumar was recorded where Chhotu Kumar categorically stated that he open fired on son of the informant leading to his death. It is submitted that these two confessional statement also creates a doubt qua claim of informant being an eye witness of the occurrence. It is submitted that no empty cartridge or any incriminating material appears recovered from the place of occurrence. It is submitted that the seizure list also appears irrelevant where only cash and mobile phone appears to be seized under the witness of Bihar Home Guard Personal putting a question to its credibility.

8. It is further pointed out by Mr. Anshul that in one search operation, one co-accused namely Raja Kumar was apprehended by STF, who categorically claimed that he was one of the shooter of present case. It is submitted that Chhotu Kumar @ Chotu Kumar was granted bail by one of the learned co-ordinate Bench of this Court through Cr. Misc. No. 76880 of 2024 dated 27.01.2025 who claimed himself to open fire upon the son of the informant during occurrence. While concluding the argument, it is submitted that petitioner found involved in six more criminal cases, where he is on bail. It is pointed out



that if merit of the case is otherwise favorable merely on the basis of criminal antecedents the prayer of bail of petitioner cannot be declined for which learned senior counsel relied upon the legal report of ***Prabhakar Tewari vs. State of Uttar Pradesh and Anr.*** reported in ***(2020) 11 SCC 648.***

9. Learned APP duly assisted by Mr. Ranjit Prasad learned counsel for the informant while opposing the prayer of bail submitted that the confessional statement of co-accused persons claiming his involvement *qua* firing cannot be relied upon for the sole reason that same was made in police custody. It is pointed out that the place of occurrence is only about 1.5-2 km from the residence of this petitioner and therefore the availability of mobile under same mobile tower is quite probable and for this reason only it cannot be said that petitioner was not involved in crime in question, whereas learned counsel for the informant could not disputed the availability of petitioner at home between 7 AM to 7:30 AM as discussed aforesaid according to CCTV footage as seized by police during course of investigation. He also approved the factum of inimical terms between the parties and criminal background of deceased.

10. In view of aforesaid factual submission and by



taking note of fact as *prima-facie* the claim of informant being an eye witness of the occurrence in view of CCTV footage as discussed aforesaid appears questionable, coupled with fact that investigation of this case already completed where petitioner remains in custody since 06.12.2024, accordingly petitioner above named, is directed to be released on bail in connection with Gaurichak P.S. Case No. 202 of 2024 on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned ACJM I, Patna City, Patna /concerned court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C/ Section 480(3) of BNSS.

(Chandra Shekhar Jha, J)

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