

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.82895 of 2024

Arising Out of PS. Case No.-139 Year-2023 Thana- AGAMKUAN District- Patna

Ram Pravesh Mahto S/o Bal Kishun Mahto R/o Mohalla - Jaipur Dhanuki,
P.S. - Agamkuan, Distt- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sunil Kumar Pathak, Adv.

For the Opposite Party/s : Mr. Rajendra Nath Jha, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 27-01-2025 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 Agamkuan P.S. Case No. 139 of 2023, registered for the offence punishable under Sections 302 and 120(B) of the Indian Penal Code and Section 27 of the Arms Act.

3. Allegedly, on the fateful day, while the brother of the informant along with his friend on a bullet motorcycle were coming from the Bairiya bus stand, followed by the informant and his friend, at about 11:00 PM, in the meanwhile, they were surrounded by all the named accused persons, who were carrying arms in their hands. Co-accused *Raushan Sharma*, *Anand Prakash @ Mukhiya Jee*, *Satyendra Singh* and this



petitioner have shot the brother of the informant. It is specifically alleged that the petitioner along with *Anand Prakash @ Mukhiya Jee* have fired upon the chest of the deceased. It is further alleged that when the informant went to save his brother, other co-accused persons stopped him on the point of pistol and made indiscriminate firing.

4. Learned Advocate for the petitioner drawing the attention of this Court to the FIR primarily contended that the alleged occurrence took place at about 11:05 in the night and soon thereafter, the police came at the place of occurrence. The inquest report has been prepared and the post-mortem has been done, but surprisingly, neither the *fardebayan* of the informant has been recorded nor he filed any written statement and the FIR has been instituted later, on 09.02.2023 at about 10:45 AM. In fact, the informant was not an eyewitness to the alleged occurrence. It is further contended that the falsity of the prosecution case is also writ large for the simple reason that co-accused *Anand Prakash @ Mukhiya Jee*, against whom there was identical allegation of causing firearm injury on the chest of the deceased, his complicity has not been found during the course of investigation, leading to not sending him up for trial; in this regard specific contention has been made in paragraph



no. 13 of the bail application. Drawing the attention of this Court to the post-mortem report, it is further contended that the cause of death is said to be head injury. Moreover, no bullet injury has been found over the chest rather it is on abdomen, is the contention of the learned Advocate for the petitioner. It is lastly contended that, be that as it may, now the petitioner has been incarcerated since 18.06.2024 and the investigation is complete and the case has been committed to the Court of Sessions.

5. On the other hand, learned APP for the State as well as informant vehemently opposes the bail application and submits that there is specific accusation of firing against the petitioner, which led to hit on the chest of the deceased, apart from five criminal antecedent, as has been mentioned in paragraph no. 3 of the bail application. The delay, as has been submitted on behalf of the petitioner is not abnormal delay, which can make dent in the prosecution case.

6. Regard being had to the submissions made on behalf of the parties and considering the specific nature of accusation against the petitioner of causing firearm injury upon the deceased alongwith others, which proved fatal, coupled with the materials available on record, including the post-mortem



report and criminal antecedent, this Court is not acceded to the prayer of the petitioner for bail, at present.

7. Accordingly, the bail application stands dismissed.

(Harish Kumar, J)

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