

Court of Addl. District & Sessions Judge - XIV, Begusarai

S. T No.- 182/2020

State of Bihar V/s Divakar Singh

11.02.2021

ORDER

Heard learned counsel Shri Rajeev Kumar on bail application dated 11.01.2021 filed on behalf of accused petitioner namely Bittu Singh @ Baibhav Vardhan Singh in connection with Session Trial No. 182/2020 arising out Nowkothi P.S case no. 98/18.

Learned counsel of petitioner submitted that petitioner is rotting in jail custody since 10.12.2020. He further submitted that accused petitioner is quite innocent and he has committed no offence. The allegation as alleged in the FIR are totally false, baseless and imaginary. He further submitted that there are specific allegations as against the co-accused Divakar Singh, Sintu Kumar, Navneet Kumar and Vikram Kumar regarding kidnapping of deceased Anand Mohan. He further submitted that accused Sintu Kumar @ Manish Kumar, Divakar Singh @ Divakar Kumar, Navneet Kumar @ Satyam Kumar, Vikram Kumar have already been granted bail by Honourable Patna High Court. He further submitted that case diary shows that three cases under Excise Act are pending against the petitioner and this fact is mentioned in para no. 24 of case diary. But bail cannot be denied only on the basis of criminal antecedent. He further submitted that deceased was a notorious criminal and several cases are pending against the deceased. Para 128 of case diary shows that three cases are pending against the deceased. He further submitted that the prosecution version are in two parts, first part shows the four accused persons(not petitioner) kidnapped the deceased on the scorpio, the second part of the story as narrated by the prosecution is quite improbable. So, the petitioner may be enlarged on bail.

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Learned Addl.P.P opposed the prayer of bail and submitted that petitioner is named accused in FIR itself. There is specific allegation of firing is upon this accused petitioner. He further submitted that petitioner has murdered the informant's brother namely Anand Mohan. There is ample evidence in case diary in against of this accused petitioner. So, the petitioner does not deserve bail.

Having heard both the parties and on the perusal of record it transpires that petitioner is named accused in FIR itself. Accused petitioner and Dheeraj Singh fired on informant's brother namely Anand Mohan who died on the way to hospital itself. So, there is specific allegation of firing upon this petitioner. Para 2 of case diary contains inquest report which shows that Anand Mohan was murdered by firing. Para 3 contains seizure list which shows the recovery of one empty cartridge of 9 mm and blood sample from the place of occurrence. Para 8, 18, 19 of case diary support the prosecution case. Para 24 of case diary contains criminal history of accused petitioner which shows that four cases are pending in against of this accused petitioner under different sections of Excise Act, IPC. Para 43, 100, 109, 131 of case diary also support the prosecution case. Post-mortem report shows that Anand Mohan died due to Haemorrhagic and Neurogenic Shock as a result of injuries caused by close range firearm injury in the head and not show close injury in the right thorax. Blood and clot inter mixed with brain material in the cranial cavity. Meninges, meningeal spaces and cerebral vessels torn on right side. Right lung lacerated and blood clot was found in right thoracic cavity. On the body of deceased following ante-mortem injuries were found:

(i) Firearm projectile wound of entry 1" in diameter with margin lacerated and inverted covered with blood and blood clot and charred with scattered carbon particles embedded in epidermis and subcutaneous layer of area adjoining nose B/L below inner canthus of right eye going laterally and posteriorly.

(ii) One CLW right parietal region 3"x2" xbone deep with blood and clot covering(Wound of exit everted margin)

Contd.

(iii) One CLW right frontal region just anterior to hair line 2"x1.5"xbone deep with blood and clot covering.

(iv) CLW right mastoid region pinna and ear root exposing bone and mutilating pinna.

(v) One CLW left frontal region 1"x0.5"xbone deep with blood and clot covering.

(vi) One CLW 0.5"x0.5"xskin deep over chin with blood and clot covering.

(vii) One CLW with inverted margin over left maxilla going upward towards right parietal region(wound of entry)

(viii) One CLW right para sternal region going postero laterally(wound of entry inverted margin)

(ix) One CLW 2.5"x1.5" with everted margin in right posterior axillary line upper most part communicating with thoracic cavity(wound of exit)

(x) Multiple abrasion left elbow and dorsum of left forearm.

(xi) Nails of left great toe and other toes denuded and blackish with loss of nails.

X-ray skull AP & Lat views shows one radio opaque shadow deformed bullet lying in the lateral wall of right maxilla.

In view of aforesaid facts and circumstances; this court is of considered opinion that this is not a fit case to enlarge the petitioner on bail. So, the prayer of bail is hereby rejected.

(Dictated and corrected)

**Addl. District & Sessions Judge- XIV
Begusarai/11.02.2021**