

Court of Additional Sessions Judge-21, Muzaffarpur, Bihar

Sessions Trial No. 42 of 2023

- 18.08.2023
1. Accused Nagendra Sah and Pramod Kumar Mahto are present.
 2. I have heard both side on petition dated 22.02.2023 filed on behalf of accused Pramod Kumar Mahto U/s 227 of Cr.P.C. The prosecution has also filed rejoinder of this petition dated 20.03.2023.
 3. The submission of Ld. Counsel for the petitioner is that he is innocent and has falsely been implicated in this case. It has further been submitted that the petitioner is named in the FIR, but after proper investigation the police has submitted final report against the petitioner as his involvement was not found in this case. It is evident that only two empty bullets were recovered from P.O. and there is specific allegation of firing two bullet shots against two another accused persons. This shows that petitioner was not present at P.O. The reason behind naming this petitioner in this case is that he had lodged Town P.S. Case NO. 1039/2014 against the deceased due to which he has been named in this case. As there is no material and evidence on record against the petitioner, hence, he is fit to be discharged from this case.
 4. The Ld. APP has opposed this petition and has submitted that there is sufficient material on case record against the petitioner as the case diary witnesses have supported the case of informant. Hence, this petition is fit to be rejected.
 5. Perused the case record. This case has been instituted by the informant Md. Wasim alleging therein that on dated 12.08.2015 at about 11:00 pm, he was at home when Sunny Kumar and his father Nagendra Sah came there and called upon his brother Md. Sarfraz. They took him with them. As there was night, hence the informant also chased them. He saw that other accused persons including the petitioner Pramod Kumar Mahto was also present near the house of Sunny Kumar. From there, they took Sarfraz to Sikandarpur. As the informant had suspicion, hence he called upon his family members and they all chased the accused persons. He saw that Suraj Kumar fired a bullet on head of his brother Sarfraz and Dinanath Mahto fired a bullet on his waist. The other accused also fired due to which his brother died on spot. The reason behind the occurrence is a land dispute.

6. After investigation, police submitted charge-sheet against other accused persons for the offence U/s 302 & 120(B) IPC and 27 Arms Act, but submitted final report against this petitioner and against one Nagendra Sah due to lack of evidence against them. However, the Ld. Court below has taken cognizance against the petitioner for the offence U/S 302 & 120(B) IPC and 27 Arms Act.

7. On perusal of case diary, It appears that case diary witnesses including the informant have supported the case of prosecution and they have specifically named this petitioner committing the offence. They have deposed that they had seen the petitioner at spot with other accused persons. Hence, I find no any reason to discard the evidence available on record at this stage.

8. Therefore, Considering, the statements of witnesses of case diary and other materials available on record, I find sufficient evidence for framing of charge against the petitioner. Accordingly, this petition is hereby rejected as having no merit.

Put up on 23.08.2023 for framing of charge. **All accused directed to present physically.**

Dictated and Corrected

Additional Sessions Judge - 21
Muzaffarpur.