

In the Court of Additional Sessions Judge-II
Vaishali at Hajipur

Sessions Trial No. 65/2023

ORDER

19-06-2023

1. Attendance has been filed by accused Pushkar Kumar Singh. A petition dated 29.03.2022 filed on behalf of the accused-petitioner, namely, Vishal Kumar Gupta @ Bhoti S/o Shri Bhuneshwar Prasad, who is in judicial custody since 12.09.2022 has been moved, praying therein to enlarge the petitioner on bail.

2. Heard Ld. A.P.P. as well as the Ld. Counsel for the petitioner and perused the record

3. From the perusal of the record, it transpires that the prosecution story, is that on 20.05.2022 at about 8.30 P.M. when the informant loaded his Pick up van bearing Registration No. BR-02-GA 6561 and was heading towards Jahanabad Fruit market for selling Litchi, When he reached near Manua market at about 1.00 P.M., the Pick-up was intercepted by a White coloured Maruti Car from front of Pick up and on point of pistol the miscreants snatched Rs. 7,000/- from informant and Rs. 3,000/- from Sadhu Nayeem Mian . On raising alarm, the knife was stabbed in right side of stomach and he was also shot by bullet on left side of stomach. His brother-in-law Nayeem Mian was also shot at Right heap and knife injuries on various body parts were inflicted. The Driver was forcefully boarded on Maruti. They also wanted to take away the Pick up van but due to the protest from informant's side and raising of alarm by co-villagers and also due to the fact that the Pick up van could not be started, the miscreants left the same on the place of occurrence, the injured were taken to P.M.C.H. after Referral of Sadar Hospital.

4. From perusal of the record, it transpires that charges have been framed on 01.02.2023 against the accused-persons including Vishal Kumar Gupta @ Bhoti. The petitioner is in custody since 12.09.2022 in connection with this case. The petitioner is also accused in 2 other cases i.e. 1.

Salimpur P.S. Case No. 133/2022 U/ss 399, 402, 412 of I.P.C. and Sec. 25(1-B)a, 26, 35 Arms Act & 2. Sadar P.,S. Case No. 399/2020 U/s 392/411/414 of the I.P.C. . In course of investigation Co-accused Pushkar Singh has been apprehended, who has allegedly confessed his involvement in alleged crime and disclosed the name of his associates including the petitioner. The name of the petitioner has also been taken in the confessional statement by co-accused Nitish Rai. As per his confessional statement, the co-accused Sonu Rai was the one, who had inflicted bullet injury and Nitish had inflicted knife injuries in the alleged incident. Similarly, the co-accused Sonu Kumar has also named the petitioner as one of the persons involved in the alleged incident. The Co-accused Aman @ Durlabh Kashyap @ Akash Raj has also named the petitioner as one of the persons involved in the alleged incident. The petitioner has been remanded from Sadar P.S. Case No. 399/2022 U/ss 392/411/414 of the I.P.C. and has two cases pending against him.

5. The co-accused Dhiraj Kumar, who has 7 Criminal antecedents and who was in custody since 12.09.2022 has not been granted bail. The co-accused Durlabh Kashyap, who was in custody since 11.09.2022 and who had only one case pending has been granted bail after framing of charge, as per order dated 19.12.2022 of learned A.D.J. VII through B.P. No. 2623/2022. It is also clear that co-accused Pushkar Kumar Singh has also been enlarged on bail, Vide order dated 19.12.2022 of B.P. No. 2064/22 by the Court of learned Addl. Sessions Judge – VII, Vaishali who had only one case pending against him and the bail bonds were ordered to be accepted after the framing of charge.

6. As per Sec. 395 of I.P.C., the punishment prescribed by law for commission of dacoity is imprisonment for life or with Rigorous Imprisonment for term which may extend to 10 years. Similarly, the punishment prescribed U/s 412 of I.P.C. is imprisonment for life or with Rigorous Imprisonment for a term which may extend to 10 years. The punishment prescribed U/s 392 is imprisonment not less than 7 years. Thus,

the nature of offences as alleged against the petitioner are very serious in nature and no witnesses have yet been examined.

7. Considering the facts that the petitioner has 2 other cases pending against him, one of which is in different jurisdiction. It further shows that the possibility of commission of similar crime can not be totally ruled out. Thus, keeping in view the nature and gravity of accusation, the criminal cases pending against the petitioner in different jurisdiction and that too related with Arms Act and other serious offences and also the stage of present trial as well as keeping in view the concept of fair trial and interest of Justice, I am not inclined to accept the bail application of the petitioner at the present stage. However, the petitioner is given at liberty to file another bail application after the examination of the informant and the victim.

8. Office is directed to comply the order dated 22.05.2023 whereby this Court has already directed to issue summons to the Charge-sheeted witnesses and that has not yet been complied. Let the hearing of his case be put up on 28.06.2023. The Steno is directed to upload the order on CIS after due verification.

Addl.Sess.Judge-II,
Vaishali at Hajipur,
19.06.2023