

(2020) 06 PAT CK 0089

In the Patna High Court

Case No : Criminal Miscellaneous No. 4119 Of 2020

Surendra Paswan

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 11-06-2020

Acts Referred:

Indian Penal Code, 1860 — Section 120B, 147, 148, 149, 302, 427
Arms Act, 1959 — Section 27
Explosive Substances Act, 1908 — Section 3, 4

Citation : (2020) 06 PAT CK 0089

Hon'ble Judges : Ahsanuddin Amanullah, J

Bench : Single Bench

Advocate : Bipin Kumar, Sanjay Kumar Tiwary, Shailesh Kumar Singh

Final Decision : Dismissed

Judgement

Ahsanuddin Amanullah, J

1. The matter has been heard via video conferencing due to lockdown imposed on account of the COVID-19 pandemic.
2. Heard Mr. Bipin Kumar, learned counsel for the petitioner; Mr. Sanjay Kumar Tiwary, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State and Mr. Shailesh Kumar Singh, learned counsel for the informant.
3. The petitioner is in custody in connection with Jhajha PS Case No. 18 of 2019 dated 19.01.2019 instituted under Sections 147/148/149/302/427/120B of the Indian Penal Code; 27 of the Arms Act and 3/4 of the Explosive Substances Act, 1908.
4. The allegation against the petitioner and othernamed accused is of firing and hurling bomb resulting in the death of two persons.
5. Learned counsel for the petitioner submitted that the allegation is general and omnibus and nothing specific with regard to the petitioner of doing any overt act.

It was submitted that the petitioner is in custody since 11.09.2019. It was further submitted that Niraj Yadav @ Niraj Kumar Yadav and Dharma Paswan have been granted bail.

6. Learned APP, from the case diary, submitted that in various paragraphs witnesses have clearly taken the name of the petitioner as being present at the place of occurrence and also participating in the same. It was further submitted that the petitioner has five other criminal antecedents of similar nature and, thus, a veteran criminal.

7. Learned counsel for the informant submitted that the driver of vehicle in which two persons who were murdered were travelling has specifically identified the petitioner as the person who had thrown the bomb which resulted in the killing of two persons. It was further submitted that due to political rivalry in the local elections, the informant was being targeted and it was he whom the assailants had come to kill but not finding him in the vehicle, they had instead fired and thrown bomb resulting in killing of two persons travelling in the vehicle. It was further submitted that co-accused Suresh Yadav had moved for bail in Cr. Misc. No. 47703 of 2019 which was rejected by order dated 04.12.2019. It was submitted that Dharma Paswan was already in jail at the time of occurrence and that is why he has been granted bail whereas against Niraj Yadav @ Niraj Kumar Yadav there is no specific allegation of any overt act whereas against the petitioner the driver of the vehicle, who is an eye witness, has clearly stated that he had hurled the bomb.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to enlarge the petitioner on bail.

9. Accordingly, the application stands dismissed.

10. However, the Court below shall expedite the trial.