

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.33059 of 2016

Arising Out of PS.Case No. -148 Year- 2014 Thana -AADAPUR District-
EASTCHAMPARAN(MOTIHARI)

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1. Sanjay Rai @ Sanjay Kumar Rai Son of Shambhu Rai Resident of
Village- Jhitkahai, P.S. Adapur, District East Champaran .

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma, Advocate

For the Opposite Party/s : Mr. Sri Shyameshwar Dayal, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

2 24-08-2016

Heard learned counsel for the petitioner and the

learned A.P.P. for the State.

The petitioner apprehends his arrest in connection with Adapur P.S.Case No. 148 of 2014 registered for the offence punishable under Sections 147,148,149, 323, 324, 307, 447, 504 and 506 of the Indian Penal Code.

The prosecution case, in brief, is that the informant Rambabu Prasad gave written application to the Police Officer Town P.S. Motihari alleging therein that on 02.11.2014 at 11 P.M. the informant and his family members were sleeping in his house and all of sudden petitioner along with other co-accused persons named in the F.I.R. armed with weapons came at the door of informant and on hulla the informant got up and came at the door of his house and seeing the informant, the accused persons

started abusing the informant and co-accused Shambhu Rai ordered to kill the informant and the petitioner Sanjay Rai (petitioner) fired from the rifle upon the informant with a view to kill him, which hit on the right arm of the informant and informant tried to flee away then the petitioner again fired which hit right thigh of informant then the informant fell down. On sound of fire Baleshwar Rai came out from his house then co-accused Ram Ekbal Rai fired with pistol to kill him which hit left knee of Baleshwar Rai and he fell down. In the meantime villagers came then the accused persons also assaulted them and fled away. After that informant and other injured persons were brought at Sadar Hospital, Motihari for their treatment.

It has been submitted by the learned counsel for the petitioner that he is innocent and has falsely been implicated as there was land dispute between both sides. It has also been submitted that the allegation against the petitioner is of firing by rifle which hit the informant on his right shoulder and right thigh but it has been pointed out that in the injury report, there is no such injury, and it has been found to be simple in nature, caused by hard and blunt substance on the informant. He also submits that both parties are on inimical terms, as earlier the petitioner's side lodged a complaint case bearing Adapur P.S. Case No. 142 of 2014 with regard to the same occurrence. He further submits that injury being simple in nature, no case under Section 307 of the Indian

Penal Code is made out against him.

However, learned A.P.P. for the State submits that the petitioner is named in the F.I.R., hence, opposes the prayer for bail.

Be that as it may, since there is a case and counter case and the petitioner's case being prior to the present case, the above named petitioner, in the event of his arrest or surrender before the learned Court below within a period of eight weeks from today, be released on bail on furnishing bail bond of Rs. 10,000/- (Rs. ten thousand only) with two sureties of the like amount each to the satisfaction of the learned Sub Divisional Judicial Magistrate, Raxaul, East Champaran at Motihari in connection with Adapur P.S.Case No. 148 of 2014, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Nilu Agrawal, J)

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