

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.29936 of 2018

Arising Out of PS.Case No. -239 Year- 2017 Thana -MAHUA District- VAISHALI(HAJIPUR)

=====

Motilal Singh S/o Jagdish Singh, R/o Vill.- Paharpur, P.S.- Mahua, Distt.-
Vaishali.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Manish Chandra Gandhi

For the Opposite Party/s : Mr. Ashok Kumar, A.P.P.

For the informant : Mr. Pawan Kr. Singh

=====

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

9 12-10-2018 Heard the learned counsel for the petitioner, the

learned APP for the State and the learned counsel appearing for

the informant.

The petitioner seeks regular bail in connection with

Mahua PS case no. 239 of 2017 instituted for the offences

punishable under Sections 147, 148, 149, 447, 326, 307, 302, 504

of Indian Penal Code and Section 27 of Arms Act.

The case of the prosecution in brief is that the

informant has alleged that his father had purchased 13 *dhoors* of

land from one Motilal Singh at Paharpur on which, one room was

already constructed and now, he was getting a boundary wall

constructed after having come on leave from Sheohar district

where he is a government teacher. It is further alleged that on



26.09.2017 at 9 am in the morning, the father of the informant, his cousin brother, his uncle and his nephew were together sitting on the land under construction while the brother of the informant namely Pankaj Kumar was getting the pillar constructed through 3-4 labours and in the meantime, the accused persons including the petitioner herein, variously armed, came at the land under construction and told the father of the informant to stop the work whereupon, the father of the informant told them that he had purchased this land and he has got papers for the same, hence the work would not be stopped. Thereupon, the co-accused namely Sanjeet Rai and Krishna Kr. Bhargav told Sanjay Rai to shoot the father of the informant, whereupon Sanjay Rai fired several rounds from his arm on the father of the informant resulting in death of the father of the informant. It is further alleged that the petitioner herein along with Suresh and Arbind had also fired from their arms which hit the father, cousin brother and uncle of the informant resulting in all the three becoming grievously injured. Subsequently, the father of the informant died.

The learned counsel for the petitioner has submitted that the petitioner is innocent and has been falsely implicated in the present case on account of land dispute. The learned counsel for the petitioner has also drawn attention to the



statement of the injured witness namely Dinesh Singh, as recorded in paragraph no. 79 of the case diary to contend that the said witness has stated that as far as the petitioner is concerned, he had fired by his countrymade pistol on the person of the said witness and his nephew namely Shankar Singh had fallen on the ground, however the injury report of the said Dinesh Singh would show that he has received simple injury, hence at best, the petitioner can be indicted for the offence punishable under Section 307 of Indian Penal Code and as the petitioner is languishing since about a year, he is liable to be granted regular bail.

Per contra, the learned APP for the State as also the learned counsel for the informant have submitted that admittedly, the petitioner herein has fired resulting in injuries to Shankar Singh and Dinesh Singh. The injuries would go to show that the same have been caused by firearms and it is the good luck of the said two injured witnesses that they have escaped death. The learned counsels have also referred to paragraph no. 39 of the case diary, wherein the statement of the injured Shankar Singh has been recorded and the said statement would bear it out that there is specific allegation of the petitioner herein having fired gun shot resulting in injury being received by the said witness Shankar Singh on his cheek which infact, is also corroborated by the injury



report in paragraph no. 94 of the case diary. Thus, the submission of the said learned counsels appearing for the State and the informant is that admittedly, the petitioner herein had fired gun shot resulting in injuries not only to Shankar Singh but also to Dinesh Pd. Singh, hence the petitioner herein cannot be absolved from the said crime in which one person has died and others have been injured. It is lastly submitted that if such person as the petitioner herein is enlarged on bail, there will be complete lawlessness.

I have perused the materials on record as well as the case diary and I find that the complicity of the petitioner herein in the alleged crime is writ large. The allegation is serious in nature. One person has been killed as well as there is direct allegation against the petitioner herein of firing from the arms being held by him. I also find that apart from the deceased father of the informant, the cousin brother of the informant namely Shankar Singh and uncle of the informant namely Dinesh Prasad Singh have sustained firearm injuries which are attributable to the petitioner as well and the injury report annexed to the case diary shows that both the said Shankar Singh and Dinesh Singh have received firearm injuries, hence the allegation against the petitioner, prima facie, stands supported by the medical evidence.



For the reasons mentioned hereinabove as also considering the gravity of the offence committed by the petitioner herein, I find that the present case is not a fit case for grant of regular bail, hence the prayer for grant of regular bail of the petitioner is rejected.

(Mohit Kumar Shah, J)

rinkee/-

U		T	
---	--	---	--

