

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.42605 of 2018

Arising Out of PS. Case No.-231 Year-2018 Thana- BHAGALPUR KOTWALI District-
Bhagalpur

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Fantush Yadav @ Fanta Yadav, Son of Ratan Yadav @ Ratan Lal Yadav,
resident of Village- Chourdhridi, Police Station- Lodipur, District-
Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Praveen Kumar, Adv.

For the Opposite Party/s : Smt. Nirmala Kumari, APP 167

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

3 06-08-2018 Heard learned counsel for the petitioner and the State.

The petitioner is languishing in jail since 10.04.2018
in connection with Kotwali (Barari) P.S. Case No. 231 of 2018
registered under Sections 302 and 34 of the Indian Penal Code
and 27 of the Arms Act.

Learned counsel for the petitioner submits that though
the petitioner's name in the first information report, the
allegation is that several persons, which included the petitioner,
fired at the deceased from close range behind the ears. The post
mortem report reveals two entry wounds and the allegation is
attributed to at least ten persons, which also includes the
petitioner. The story has carved out by the informant based on
conjectures and surmises and is not worthy of credence.



Diary in the present case was called for, which has been received.

Learned counsel appearing for the State, after perusing the case diary, submits that the allegation is that all the accused persons fired, only two gun shot wounds have been found and it can not be attributed to any of the particular accused person as named in the first information report as the gun shot injury is only possible from close range and if ten persons were there at the place of occurrence then it would not be specific that who had fired from the close range.

Considering that the prosecution story bear a distinct cloud and there is no further material in the case diary to implicate the present petitioner, let the petitioner, named above, be released on bail on furnishing bail bond of Rs.10,000/- (rupees ten thousand) with two sureties of the like amount each in connection with Kotwali (Barari) P.S. Case No. 231 of 2018 to the satisfaction of the Chief Judicial Magistrate, Bhagalpur, on the following conditions.

(1) One of the bailors will be his own blood relative, preferably father, mother, brother, sister of the petitioner.

(2) The petitioner shall not indulge himself in any similar offence till conclusion of the trial.



(3) The petitioner shall remain physically present in Court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reasons, his bail bond shall be liable to be cancelled by the learned Court concerned.

(4) The petitioner shall co-operate with the investigation, if not already concluded, and make himself available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

(Anjana Mishra, J)

Shamshad/-

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