

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26030 of 2019

Arising Out of PS. Case No.-40 Year-2018 Thana- NADI NAINAHA District- West
Champaran

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HARENDRA CHAUDHARY, Male, aged about 25 years, Son of Sharda Chaudhary Resident of Village - Bhagwanpur, P.S.- Nadi, Distt.- West Champaran ... Petitioner

Versus

The State of Bihar ... Opposite Party

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Appearance :

For the Petitioner : Mr. Vijay Kr Singh No. 1, Adv.
For the Opposite Party : Mr. Nagendra Prasad, APP

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

2 07-05-2019 Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the State.

The petitioner is languishing in judicial custody since 25.02.2019 in connection with Nadi P.S. Case No. 40 of 2018 for the offences alleged under Sections 341, 120B, 307, 506 and 34 of the Indian Penal Code and under Section 27 of the Arms Act.

The prosecution case, as lodged by the informant, is that while he was sitting at his door in the morning and his brother, Chunni Chaudhary, was on road, co-accused, Sharda Chaudhary, against whom both had previous land dispute, started threatening the informant and his brother. Thereafter, five accused persons, including the petitioner, came variously armed with country made pistol and lathi and on the orders of the co-accused, Sharda Chaudhary, co-accused, Nagendra



Chaudhary, fired on the informant, which hit him on the thigh. It is alleged that the petitioner also fired, but, it hit on the ground.

It has been submitted by the learned counsel for the petitioner that he is innocent, bears no criminal antecedent, there was previous civil dispute between both parties and for the same occurrence the petitioner's side has also lodged first information report against the informant's side being Nadi P.S. Case No. 42 of 2018 wherein similar allegations have been levelled against the informant's side. He, further, submits that no injury has been caused as alleged against the petitioner, hence, no case under Section 307 of the Indian Penal Code is made out against the petitioner. He, further, submits that the injury was on the non-vital part of the body and the order giver and the main assailant have already been granted the privilege of bail by coordinate Benches of this Court in Cr. Misc. No. 20127 of 2019, dated 02.04.2019 and Cr. Misc. No. 17419 of 2019, dated 29.03.2019 respectively.

However, the learned Additional Public Prosecutor for the State opposes the prayer for bail.

Considering the nature of allegations and there being no direct or specific allegation against the petitioner and that co-



accused on whom specific allegation has been levelled have already been granted the privilege of bail coupled with the fact that there was a counter case by the petitioner's side and that the petitioner does not bear any criminal antecedent, as stated in paragraph 3 of the present application, let the petitioner, above named, 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 Nadi P.S. Case No. 40 of 2018 to the satisfaction of Sri P.K. Sharma, learned Judicial Magistrate, 1st Class, Bagaha, West Champaran, or the successor Court, subject to the following conditions :

(i) One of the bailors would be a close relative of the petitioner having sufficient immovable property, who will file an affidavit stating his relationship with the petitioner.

(ii) If the petitioner indulges in an offence of similar nature in future, the prosecution will be at liberty to move the learned Court below for cancellation of his bail bonds.

(Nilu Agrawal, J)

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