IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32242 of 2019

Arising Out of PS. Case No.-64 Year-2007 Thana- THAKRAHA District- West Champaran

==========

Basudev Yadav @ Basudev Tiwari, aged about 80 years, Sex- Male, Son of Late Saryug Yadav, Resident of Village - Pakaha (Semar Bari), P.S.- Thakaraha, Distt - West Champaran.

... ... Petitioner/s

Versus

The State of Bihar

... ... Opposite Party/s

==========

Appearance :
For the Petitioner/s : Mr.Milind Kumar Mishra, Advocate
For the Opposite Party/s : None

==========

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL ORDER

3 30-08-2019 Heard learned counsel for the petitioner and learned A.P.P. for the State.

The petitioner seeks bail in connection with Sessions Trial No. 415 of 2009 arising out of Thakaraha (Bhitaha) P.S. Case No. 64 of 2007 registered for the offences punishable under Sections 147, 148, 149, 353, 332, 333, 307 of the Indian Penal Code and Sections 25(1-B) A, 26, 27, 35 of the Arms Act.

The prosecuton case in brief is that on the self statement of PSI Sakhichand Sah, O/C Bhitaha O.P. stating therein that on the confidential information, he along with SAP and BMP proceeded towards Premhi Jhakhnahr Reta in which Basudev Yadav and Bansi Yadav along with 10-12 associates were planning for a heinous crime. They reached at about 3 p.m. and saw near a Ghotha, some unknown suspects were standing and the police personnel surrounded the miscreants and

WEB COPY

announced that all are surrounded by armed force and surrender before them then miscreants opened fire upon the police party. For self defence, police personnel also started firing upon miscreants, after that miscreants fled away from the P.O. On the basis of self statement of I.O., this case has been registered.

Learned counsel for the petitioner submits that the petitioner is innocent and the allegation against him is false. Learned counsel for the petitioner further submits that the petitioner is in custody since 23.06.2008 and charge has been framed on 13.08.2010 since then non of the prosecution witness were examined in this case only due to reluctant attitude of the prosecutor. It has been further submitted that this case is looking false and fabricated on its own face because non of the police personnel sustained injury and there is no witness who may say that the accused resorted fire upon the police personnel.

Learned court below also mentioned in the order sheet that in this case, charge sheet has been submitted on 13.08.2010 and summons and warrant has already been issued against the prosecution witnesses, but till date no any witness has been examined. In paragraph-3, learned counsel for the petitioner submits that out of 46 cases pending against him, in most of the cases, he is on bail. There is no allegation that the petitioner is

WEB COPY

tampering with the evidence.

In the facts and circumstances of the case, let the petitioner above named be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of 1st Additional Sessions Judge, Bagaha, West Champaran in connection with Sessions Trial No. 415 of 2009 arising out of Thakaraha (Bhitaha) P.S. Case No. 64 of 2007, subject to the following conditions :

(1) On of the bailors would be close relative of the petitioner having sufficient immovable properties, who will file an affidavit stating his relationship with the petitioner.

(2) The petitioner will appear before the learned Court below during trial as and when required and failure to appear on two consecutive dates without assigning any reason will entail cancellation of his bail bonds.

(3) 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.

(Anjani Kumar Sharan, J)

Nasimul/-

U		T	

WEB COPY