

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.71358 of 2018

Arising Out of PS. Case No.-63 Year-2007 Thana- GAYA GRP CASE District- Gaya

Satyendra Yadav @ Sateyendra Yadav, S/o Ramchandra Yadav, Resident of
Village-Gurpa, P.S. Fatehpur, Distt.-Gaya

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bhaskar Shankar
For the Opposite Party/s : Mr. Ram Anurag Singh

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

5 24-01-2019 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner is languishing in custody since
21.08.2018 in a case registered for the offences punishable
under Sections 302, 34 and 307 of the I.P.C. and Section 27 of
the Arms Act.

The prosecution case as per the fardbeyan of Nand
Kishor Yadav recorded by Ashok Kumar, S.I., Officer-n-charge,
Fatehpur P.S. on 13.04.2007 at 07.30 hrs. at A.N.M.C.H., Gaya
is to the effect that on 12.04.2007 at about 07.30 P.M. the
informant along with his grand-mother, Parvati Devi (deceased)
and his younger brother Arvind Yadav @ Tiger was going to
Koderma by passenger train. When the informant and his family
members alighted at Gurpa Railway Station and was going



towards their house, in the meantime, four accused persons, including the petitioner and one unknown, surrounded them. It is alleged that the petitioner armed with rifle and others armed with pistol, surrounded the informant and on the order of co-accused, Ramchandra Yadav, co-accused Manoj Yadav fired on the informant which hit on the left side of the chest of the informant, in the meantime, the petitioner resorted to fire from rifle which hit on the chest of the grand-mother of the informant, who died during the course of treatment. It is further alleged that co-accused Raju Yadav resorted to fire which did not hit anyone.

It is submitted by the learned counsel for the petitioner that since the informant was accused in Fatehpur P.S. case No. 21 of 1996 lodged due to the murder of the brother of the petitioner and in that case final form was submitted on 12.03.2017 hence, in order to create hindrance in evidence, the petitioner has maliciously been roped in the present case. In the present case, on conclusion of investigation, the petitioner has not been sent up for trial, but differing with the final form, the learned Magistrate took cognizance of the offences against the petitioner vide order dated 25.05.2009. The said order taking cognizance was set aside and the matter was remanded back to



the learned Court below for passing a fresh order, assigning speaking reasons. Thereafter, the second time cognizance was taken by the learned Magistrate vide order dated 01.08.2012, but the petitioner never received summon, hence the petitioner ultimately surrendered on 21.08.2018. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

It is further submitted that the injury on the chest of the victim though caused by firearm, but it has not been caused by rifle as alleged in the FIR as the wound of entry is bigger in size than the wound of exit, whereas two other injuries have been caused by hard and blunt substance and there is no explanation of such injury in the FIR.

Learned APP for the State after going through the case diary submits that the accusation is against the petitioner of causing firearm injury on the person of the victim.

Considering the facts that the accusation of causing firearm injury by rifle is not being corroborated by the medical opinion, the petitioner was not sent up for trial and differing with the final form cognizance was taken against the petitioner, coupled with the statement in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent, let the



above named petitioner be released on bail on furnishing bail bonds of Rs. 10,000/-(ten thousand) with two sureties of like amount each to the satisfaction of learned **Railway A.C.J.M., Gaya** in connection with **Gaya Rail P.S. Case No.63 of 2007.**

However, if the petitioner defaults on three consecutive occasions, the learned Court below would be at liberty to cancel the bail bond of the petitioner.

(Dinesh Kumar Singh, J)

Deepak/Rahul/-

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