

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52070 of 2019

Arising Out of PS. Case No.-233 Year-2018 Thana- MIRGANJ District- Gopalganj

SANTOSH BAITHA Son of Late Rajendra Baitha Resident of Village-
Badarjimi, Ward No. 16, P.S.- Mirganj, District- Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Y.V.Giri, Sr. Advocate Mr.Pranav Kumar, Advocate
For the Opposite Party/s :		Mrs. Anita Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 04-09-2019 Heard the learned Senior Counsel for the petitioner the
and the learned APP for the State.

The present petition for grant of regular bail is a second attempt on the part of the petitioner in connection with Mirganj P.S. Case No. 233 of 2018 under Sections 147, 148, 149, 307, 504, 324, 325 and Section 27 of the Arms Act, inasmuch as the earlier prayer for grant of regular bail to the petitioner was rejected by an order dated 22.2.2019 passed in Criminal Miscellaneous No. 2882 of 2019.

The case of the prosecution, according to the informant, is that on 19.08.2018 at about 9 P.M. in the night, he had gone for bringing articles for the 'Astjam Pooja' along with Ganesh Sahni and Mithlesh Sahni when the accused persons, namely,



Santosh Baitha i.e. the petitioner herein, Guddu Baitha, Deo Nath Manjhi, Raj Kumar Baitha, Deepu alias Deepak Baitha and Amod Baitha stopped the informant and others near Primary school and started assaulting them with stick and 'Danda' and upon hulla, one Saral Mallah had arrived there to save Ganesh Sahni, whereupon the petitioner herein fired a gunshot at Saral Mallah, which hit him in his belly. The other accused had then assaulted the prosecution party with knife etc. Thereafter, Saral Mallah is said to have been taken to the hospital for treatment.

The learned Senior Counsel for the petitioner has submitted that the petitioner is in custody since 29.8.2018 i.e. for more than about one year and has already been suitably punished, however, the fact remains that the nature of injury upon the victim, namely, Saral Mallah has not been ascertained till date on account of the opinion being reserved with regard to the same by the Doctors, hence, it is doubtful as to whether the said Saral Mallah has in fact received any gunshot injury or not. It is further submitted that for the same incident, another F.I.R. bearing Mirganj P.S. Case No. 234 of 2018 dated 19.8.2018 was filed by the Assistant Sub-Inspector of Police, Mirganj Police Station against the petitioner herein and in the said case, the petitioner has been granted bail by an order dated 12.12.2018



passed in Criminal Miscellaneous No. 72819 of 2018. The learned Senior Counsel for the petitioner has further submitted that the petitioner has been falsely implicated and as far as two other criminal cases, which are pending against him, are concerned, he is on bail in both the cases. It is also submitted that the petitioner is ready to abide by whatever conditions, as are deemed fit and proper to be imposed upon the petitioner.

Considering the facts and circumstances of the case, especially the period of incarceration of the petitioner herein, as also the fact that in the other criminal case arising out of same incident, the petitioner has been granted bail, I deem it fit and proper to direct for release of the petitioner on regular bail.

Accordingly, the above named petitioner is directed to be enlarged on bail on furnishing bail bonds of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Gopalganj in connection with Mirganj P.S. Case No. 233 of 2018.

It is needless to state that the petitioner would mark his attendance before the concerned police station at least once in a month i.e. in the first week of every month, failing which the present privilege of bail being granted to the petitioner shall stand cancelled and the petitioner would be liable to be taken into



custody forthwith.

(Mohit Kumar Shah, J)

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