

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4600 of 2020**

Arising Out of PS. Case No.-124 Year-2019 Thana- DEODHA District- Madhubani

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SHYAM SAH Son of Late Maheshwar Sah Resident of Village - Pithwatol,
P.S.- Deodha, District - Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajay Thakur, Adv.

For the Opposite Party/s : Mr. Uma Shankar Prasad Singh, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

3 14-05-2020 The proceeding has been conducted through video conferencing.

The petitioner has preferred the present application for grant of bail in a case registered for the offences punishable under Sections 341, 323, 307, 504, 290/34 of the Indian Penal Code, Section 27 of the Arms Act and Section 37 (c) of the Bihar Prohibition and Excise Act, 2016, as amended by the Amendment Act 8 of 2018. Subsequently, Section 302 of the I.P.C. was also added in the FIR. The petitioner is languishing in custody since 11.09.2019.

The prosecution case, as per the fardbeyan of Pukari Devi recorded on 10.09.2019 at 9.30 P.M. by Raj Kishore Kumar,



S.I.-cum-S.H.O., Deodha Police Station is to the effect that on 10.09.2019 at about 8.00 P.M., the son of the informant Anil Yadav was returning from market, but as soon as he reached near Bhutnath temple, co-accused, Jai Kishore Sah in the background of earlier quarrel started abusing him. Subsequently, co-accused, Jai Kishore Sah came on a PCC road, situated in front of the house of the informant and started abusing again. The husband of the informant, Jagdeo Yadav was standing there and he forbade the co-accused, Jai Kishore Sah to use abusive languages. In the meantime, the petitioner Shayam Sah who was in an intoxicating condition started abusing and assaulting the husband of the informant with fists and slaps. Subsequently, the petitioner went to his house and brought his pistol and thereafter fired upon the informant's husband causing injury on his abdomen. It is further alleged that when cousin grand-daughter of the informant, namely, Ful Kumar Yadav went to rescue the informant's husband, then the petitioner fired on him also which caused injury on his left eye brow. When the grand-son tried to snatch pistol from the petitioner then co-accused, Jai Kishore Sah, caught hold him from behind and allowed the petitioner to escape from the scene with his pistol. The husband of the informant was taken to the Sub-Divisional Hospital,



Jainagar. Subsequently, the husband of the informant succumbed to the injuries, as a result, Section 302 I.P.C. was added in the First Information Report.

Learned counsel for the petitioner submits that admittedly the occurrence took place at 8.00 P.M. in the night and it was dark, hence no grounds for identification has been suggested. As per the FIR, the husband of the informant was standing outside his house when he alleged to have received injuries whereas in the subsequent statement, the informant has suggested that her husband was standing in a *pandal* when the occurrence took place. The place of occurrence has been described at paragraph no. 12 of the case diary as PCC road, but that does not suggest that the house of the informant is in the vicinity of the place of the occurrence. It is further submitted that as per the FIR, the informant was taken to Sub-Divisional Hospital, Jai Nagar, but there is no injury report on record to corroborate the accusation of causing fire arm injury. The informant has admitted that there was a land land dispute between the parties, hence, there is likelihood of false implication. The FIR suggest that the petitioner was in an intoxicating condition, hence even assuming the accusation to be true, the case under Section 302 of the I.P.C. is not made out. Moreover, now the investigation



has already concluded and the petitioner is not having any criminal antecedent. A statement to that effect has been made in paragraph no.3 of the petition.

It is submitted by learned APP for the State that there is specific accusation against the petitioner of causing fire arm injury with pistol on the abdomen of the husband of the informant and it is being corroborated by the post mortem report and little discrepancy in the subsequent statement of the informant becomes meaningless in view of the specific accusation. The FIR suggests that the place of occurrence is the PCC road and the same description has been recorded at paragraph no.12 of the case diary by the investigating agency during investigation.

Considering the rival submissions of the parties keeping in view of the fact that the petitioner is the sole assailant to the husband of the informant and the post-mortem suggests the victim succumbed to the injuries due to gun shot injury, this Court is not inclined to grant bail to the petitioner, for the present.

Accordingly, the prayer for bail on behalf of the petitioner in connecting with Deodha P.S. Case No. 124 of 2019, pending before the learned 2nd Additional Sessions Judge-cum-Special



Judge (Excise), Madhubani, is hereby rejected.

The trial Court is expected to expedite the trial.

(Dinesh Kumar Singh, J)

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