

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6834 of 2020

Arising Out of PS. Case No.-312 Year-2019 Thana- MIRGANJ District- Gopalganj

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BABLOO TIWARI @ ABHAY TIWARI Son of Ramchandra Tiwari Resident
of Village - Mohanpur, P.S.- Mirganj, Distt.- Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s :	Mr.Ranjeet Kumar Pandey
For the Opposite Party/s :	Mr.Uma Shankar Prasad Singh, APP
For the Informant :	Mr. Ashutosh Tripathi

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

5 08-06-2020 The present petition has been taken up for consideration through the mode of Video conferencing in view of the prevailing lock-down on account of COVID 19 Pandemic, requiring social distancing.

Heard the learned counsel for the petitioner, the learned counsel for the informant, Sri Ashutosh Tripathi and the learned APP appearing for the State, Sri Uma Shankar Singh.

The petitioner seeks regular bail in connection with Mirganj P.S. Case No. 312 of 2019, registered for the offence punishable under Sections 341, 323, 307, 504, 34 of the Indian Penal Code and Section 27 of the Arms Act.

The case of the prosecution in brief is that the informant, Ajay Roy was getting some work done pertaining to his house at



about 5.00 in the evening of 15.12.2019 and in the meantime, the petitioner and other accused persons had arrived there, whereafter the petitioner is stated to have fired from the country made pistol, which he was holding in his hand, upon the informant, which hit him on the right leg over the knee, whereafter the informant is stated to have fallen down and then the accused persons had fled away.

The learned counsel for the petitioner has submitted that the petitioner is innocent, he has been falsely implicated in the present case and he is having a fair antecedent except one case in which he has been granted bail by the learned court below itself. It is further submitted that though the date of occurrence is 15.12.2019, however till 3.1.2020, as would be borne out from the records, the injury report was not ready as far as Sub-Divisional Hospital, Hathua, Gopalganj is concerned. It is also stated that the materials on record would further show that even on 6.1.2020, the ex-ray plate was not available and the Doctor had kept his opinion reserved. It is submitted that belatedly, an injury report has been concocted, however, the same would show that a superficial injury has been caused to the informant. The leaned counsel for the petitioner has also argued that there is land dispute between the petitioner and the informant and only



when the informant had come to the land in possession of the petitioner, altercation had taken place resulting in case and counter case, hence, the informant is equally responsible in the alleged incident. Lastly, it is submitted that charge-sheet has already been submitted and the petitioner is languishing in custody since 16.12.2019.

The learned counsel for the informant has opposed the prayer for bail and has submitted that there is direct allegation of firing gunshots as against the petitioner herein, hence, the petitioner does not deserve any sympathy, thus, the present petition should be dismissed.

The learned APP for the State has vehemently opposed the prayer for bail.

I have perused the materials on record, heard the learned counsel for the parties and gone through the case diary.

It is apparent from the records that the alleged incident took place on account of land dispute, which has resulted in filing of case and counter case by both the sides. It is equally true that the petitioner is having a fair antecedent and he is an accused in one other case, but he is on bail in the said case. It is also apparent from the case diary that injury report has been prepared belatedly and gunshot injuries have not been



found on any vital part of the person of the informant, hence, benefit of doubt can be given to the petitioner for the purposes of grant of bail. This Court also finds that the charge-sheet has already been submitted and there is no chance of tampering with the evidence as also there is no need of custodial interrogation of the petitioner. In such view of the matter, this Court deems 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 A.C.J.M.-XVI, Gopalganj in connection with Mirganj P.S. Case No. 312 of 2019.

It is further directed that the petitioner would mark his attendance before the Officer-in-Charge of the concerned police station at 10:00 am. on each Monday of the week and in the event of two consecutive defaults, the present privilege of the regular bail shall stand cancelled automatically.

(Mohit Kumar Shah, J)

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