

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9583 of 2020

Arising Out of PS. Case No.-533 Year-2018 Thana- NAUBATPUR District- Patna

NITISH KUMAR, S/o Late Akhilesh Mahto, R/o village- Narendra Rampur,
P.O. and P.S.- Naubatpur, Distt.- Patna

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Jha, Adv.

For the Opposite Party/s : Ms. Renuka Ratnakar, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

3 29-06-2020 The matter has been taken up through virtual Court proceeding.

Heard learned counsel for the petitioner and learned APP for the State.

It appears that vide order dated 05.03.2020, a photocopy of the case diary and injury report in connection with Naubatpur P.s. Case No. 533 of 2018 was called for by a co-ordinate bench of this Court, but the office note dated 01.06.2020 reflects that in spite of reminder, the case diary and the injury report have not been received, due to the present



pandemic, Covid-19. Therefore, the matter is being heard on merit.

The petitioner has preferred the present application for grant of bail in a case registered for the offences punishable under Sections 448, 341, 323, 326, 307/34 of the Indian Penal Code and Section 27 of the Arms Act.

The prosecution case as per the fardbeyan of Lalan Patel recorded on 31.10.2018 at 3.10 PM at emergency ward of PMCH, Patna by S.I. Amit Kumar, Naubatpur Police Station is to the effect that on 31.10.2018 at 8.00 A.M., the informant was coming to his house after easing out in the field. In the meantime, co-accused, Lala Rai, Dinesh Patel, and Lakshman Patel caught hold of the informant and assaulted with lathi. Somehow, the informant got himself free from the aforesaid accused persons and started running towards his house when he saw his son with gun shot injury on his right heel and he further saw the petitioner fleeing away carrying a pistol in his hand. Thereafter, the son of the informant was taken to PMCH, Patna where the other family members conveyed the informant that his aunt Rita Devi has also received gun shot injury on her right palm at the hands of co-accused, Sintu Patel.

It is submitted by learned counsel for the petitioner that in



the background of land dispute, the accusation has been levelled and the informant is not an eye witness to the alleged occurrence, but only on the basis of suspicion, he named the petitioner. Moreover, the impugned order does not suggest any substantial injury caused to the informant's son. It is further submitted that admittedly, the accusation of making assault has not been levelled against the petitioner and there is a counter version of the occurrence also, being Naubatpur P.S. Case No.533 of 2018 against the informant's side. Moreover, similarly situated co-accused, Dinesh Patel has been granted bail by a Co-ordinate bench of this Court vide order dated 10.01.2020 passed in Criminal Miscellaneous No.72466 of 2019. The petitioner is languishing in custody since 17.07.2019 and the investigation has already been concluded. A statement has been made in paragraph no.3 of the petition that the petitioner is accused in one other case, but he has been granted bail in that case.

Learned APP for the State submits that the petitioner was seen fleeing away from the place of occurrence with a pistol in his hand.

Considering the genesis of the occurrence and the fact that the investigation has already been concluded, the impugned



order does not suggest the nature of injury caused to the son of the informant, the FIR only suggests that the petitioner was seen fleeing away from the place of occurrence with pistol in his hand by the informant whereas co-accused, Dinesh Patel has been granted bail by a co-ordinate bench of this Court and there being a counter version of the occurrence, let the petitioner above named be released on bail for the present provisionally for a period of three months on furnishing one surety to the satisfaction of the learned ACJM-II, Danapur, Patna, in connection with Naubatpur P.S. Case No. 533 of 2018.

However, in view of the present pandemic, COVID-19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card, to the effect that he is ready to become the bailor of the petitioner which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional bail of the petitioner will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10000/- (ten thousand) with two sureties, including one surety given at the time of provisional bail, of the like amount each to the satisfaction of the learned ACJM-II, Danapur, Patna, in connection with Naubatpur P.S.



Case No. 533 of 2018.

The learned Court below will be at liberty to extend the period of provisional bail further if the court proceeding in physical mode will not resume in next three months.

(Dinesh Kumar Singh, J)

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