

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16247 of 2020**

Arising Out of PS. Case No.-106 Year-2019 Thana- BARIYARPUR District- Munger

NILESH @ FUCHNA YADAV Son of Surendra Yadav Resident of village -
Ghorghat, P.S.- Bariyarpur, Dist.- Munger.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sadanand Paswan

For the Opposite Party/s : Mr.Surendra Prasad Singh

**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL ORDER

5 03-07-2020

Heard learned counsel for the parties.

This application for anticipatory bail arises out of
Bariyarpur P.S. Case No. 106 of 2019 for the offence punishable
under Sections 307/34 of the Indian Penal Code.

The informant has alleged in the FIR that the
petitioner and two other persons came to the doorway of the
informant's house and because of past enmity, they surrounded
him. The petitioner is said to have opened fire which hit him in
his waist.

Learned Senior Counsel appearing on behalf of the
petitioner has submitted that the petitioner and the informant are
co-villagers and he has been unnecessarily implicated because
of admitted animosity, as disclosed in the FIR itself. He has next



drawn my attention to Annexure-3 of the present application to submit that the dispute between the parties has been compromised and the informant is no more willing to pursue the present criminal case. He has relied on Supreme Court's decision in case of *Narinder Singh and others vs. State of Punjab and another* reported in (2014) 6 SCC 466 to submit that even in cases constituting offence under Section 307 of the IPC, if the parties entered into a compromise, no purpose would be served if the matter is kept dragged.

I am not convinced with what has been submitted by Mr. Yogesh Chandra Verma, learned Senior Counsel for the petitioner. His reliance on paragraphs 32 and 33 of the Supreme Court's decision in case of *Narinder Singh* (supra) is wholly misplaced. The said paragraphs read as under :-

32. *We find from the impugned order that the sole reason which weighed with the High Court in refusing to accept the settlement between the parties was the nature of injuries. If we go by that factor alone, normally we would tend to agree with the High Court's approach. However, as pointed out hereinafter, some other attendant and inseparable circumstances also need to be kept in mind which compel us to take a different view.*

33. *We have gone through the FIR as well which was recorded on the basis of statement of the*



complainant/victim. It gives an indication that the complainant was attacked allegedly by the accused persons because of some previous dispute between the parties, though nature of dispute, etc. is not stated in detail. However, a very pertinent statement appears on record viz. “respectable persons have been trying for a compromise up till now, which could not be finalized”. This becomes an important aspect. It appears that there have been some disputes which led to the aforesaid purported attack by the accused on the complainant. In this context when we find that the elders of the village, including Sarpanch, intervened in the matter and the parties have not only buried their hatchet but have decided to live peacefully in future, this becomes an important consideration. The evidence is yet to be led in the Court. It has not even started. In view of compromise between parties, there is a minimal chance of the witnesses coming forward in support of the prosecution case. Even though nature of injuries can still be established by producing the doctor as witness who conducted medical examination, it may become difficult to prove as to who caused these injuries. The chances of conviction, therefore, appear to be remote. It would, therefore, be unnecessary to drag these proceedings. We, taking all these factors into consideration cumulatively, are of the opinion that the compromise between the parties be accepted and the criminal proceedings arising out of FIR No. 121 dated 14.7.2010 registered with Police Station Lopoke, District Amritsar Rural be



quashed. We order accordingly.”

For the purpose of present application, it needs to be noticed that the petitioner has criminal antecedent, inasmuch as, he is accused in two more cases, namely, (i) Bariyapur P.S. Case No. 55 of 2014, U/S 147, 148, 448, 341, 385, 387, 427, 504 I.P.C., Section 27 of the Arms Act and Section 3(x) of the SC/ST Act (ii) Bariyapur P.S. Case No. 94 of 2014, U/s 147, 148, 149, 457, 302 of the IPC, Section 27 of the Arms Act and Sections 3(x)(I)(XI)(XV), 3(viii) of the SC/ST Act.

In that background, chance of the petitioner threatening the informant leading to filing of the so called compromise cannot be ruled out. In my opinion, this is not a case for grant of regular bail, at this stage, there being direct allegation against the petitioner.

This application is accordingly rejected.

The petitioner shall be at liberty to renew his prayer for regular bail after six months if, in the meanwhile there is no substantial progress in the trial.

(Chakradhari Sharan Singh, J)

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