

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.18630 of 2020**

Arising Out of PS. Case No.-251 Year-2018 Thana- BARHARA KOTHI District- Purnia

MAHANTH MEHTA Son of Late Sahdeo Mehta Resident of Village -
Rajganj, P.S. - Bihariganj, District - Madhepura.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Bijendra Kumar Singh, Advocate

For the Opposite Party/s : Mr.Atul Chandra, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

5 02-12-2020 Heard learned counsel for the petitioner and learned APP
for the State.

The petitioner in the present case is seeking pre-arrest bail in connection with Barhara (Raghubansh Nagar) P.S. Case No. 251 of 2018 registered for the offence punishable under Sections 147, 148, 149, 341, 323, 326, 307, 379, 427, 504, 506 of the Indian Penal Code.

Learned counsel for the petitioner submits that the First Information Report has been lodged by the mother of this petitioner alleging that she had got 64 decimal of land which she had got from Bhoodan Yagya Committee. It is alleged that she was ploughing the field for last about 10 years. This time she had planted paddy crops but when she was cutting the crops altogether 8 named accused persons came there lashed with guns in their hand on the horses and asked her as to where her sons are. They started firing and the



informant was pushed down, they then scattered the entire crop and took away the same. It is alleged that when the named accused persons were firing one Rudha Devi who was standing at some distance suffered one firearm injury and thereafter the accused persons fled away threatening the informant. Later on the injured died.

Learned counsel for the petitioner submits that as it would appear the petitioner is not named in the FIR rather his mother had lodged the FIR narrating the alleged occurrence but later on in course of investigation after sometime police recorded statement of three witnesses saying that the firing had taken place from both sides and it is because of this statement one of the brothers of this petitioner was arrested but he has been enlarged on bail by a learned Co-ordinate Bench of this Court in Cri. Misc. No. 61255 of 2019.

Learned counsel submits that in course of entire investigation police has not collected any empty cartridge from the spot and the allegation from both sides are not substantiated by any independent material. The injured had suffered only one firearm shot which proved fatal to her and she died. In course of investigation again it has not come as to whose firing hit on her neck.

Learned counsel submits that it is a case of false implication of the petitioner by the accused side who wanted to grab the land of the petitioner. The petitioner has otherwise no criminal antecedent and there is no specific allegation of any witness that this



petitioner had been seen firing on anybody.

Learned APP for the State has opposed the prayer for anticipatory bail of the petitioner. Learned APP submits that in course of investigation three of the witnesses have stated that there were firing from both sides but then there is no material in the case diary specifically suggesting that this petitioner was seen firing and the shot fired by the petitioner hit the deceased. The investigation is completely silent on whose firing hit the deceased and further no empty cartridge has been recovered from the spot.

Having regard to the facts and circumstances of the case and in the nature of these submissions where the mother of this petitioner has lodged the FIR and only after some times it has come in course of investigation that there were firing from both sides, though such statements are general and omnibus without there being any specific allegation against this petitioner and no empty cartridge having been recovered from the spot, the only injury suffered by the deceased not being attributed to the petitioner and petitioner having no criminal antecedent, let the petitioner above-named in the event of his arrest or surrender within a period of four weeks from today in connection with Barhara (Raghubansh Nagar) P.S. Case No. 251 of 2018, be released on bail on furnishing of bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of learned C.J.M. Purnea, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C. i.e.



(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner.

The application is allowed.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

