

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20361 of 2020

Arising Out of PS. Case No.-50 Year-2019 Thana- KHIRI MORE District- Patna

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KAUSHAL MAHTO @ KAUSHAL KUMAR Son of Yogendra Mahto
Resident of Village-Bedauli, P.S.-Khiri More, District-Patna.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Devendra Narayan singh, Adv.

For the Opposite Party/s : Mr. Jitendra Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

5 28-08-2020 The court proceeding has been conducted through
virtual mode.

Since the court proceeding is not functional in
physical mode, due to present Pandemic, Covid -19, the present
case has been listed with defects.

Learned counsel for the petitioner undertakes to
remove the defect(s) within a period of four weeks of
resumption of court proceeding in physical mode.

If the defect(s) is not removed within the
undertaken period, the office will place the matter again.

Heard learned counsel for the petitioner and the
State.



The petitioner is languishing in custody since 09.08.2019 in a case registered for the offences punishable under Sections 147, 148, 341, 323, 307, 427, 504 of the IPC and Section 27 of the Arms Act.

The prosecution case, as per the written report of Anandi Paswan, submitted to the Station House Officer, Khiri More Police Station is to the effect that on 11.06.2019, the wife of the informant, being a Panchayat Mukhiya was returning from D.M. Office, Arwal, but on the way, five FIR named accused persons, including the petitioner and three unknown persons came on a motorcycle and got the Scorpio vehicle of the informant stopped when it is alleged that the petitioner resorted to fire causing injury on the left arm of the informant, thereafter, co-accused, Chandan Mahto, Lalu Mahto, Dharamweer Mahto and Bhola Mahto resorted to fire causing injury on the left buttock of the informant. Subsequently, all the accused persons escaped from the scene.

Learned counsel for the petitioner submits that in the background of political rivalry, the accusation has been levelled against the petitioner. For the alleged occurrence of 11.06.2019, the FIR was lodged on 24.06.2019, but the same reached to the learned Court below on 26.06.2019 and there is



no explanation for such delay in lodging of the FIR. It is further submitted that the learned Sessions Judge has passed the impugned order after going through the case diary, but the impugned order does not suggest the nature of injury caused to the informant and there is no accusation of repeating the blow against the petitioner. Though a statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent, but subsequently, a supplementary affidavit has been filed to the effect that the petitioner is accused in six other cases, but in all the cases, he is on bail, though statement to that effect has not been made in the supplementary affidavit. Hence, learned counsel for the petitioner is permitted to make correction in paragraph no.3 of the petition within a period of four weeks of resumption of court proceeding in physical mode.

Learned counsel for the State submits that the petitioner is named in the FIR with specific accusation.

Considering the delayed lodging of the FIR and its delayed transmission to the learned Court below, and the fact that the investigation has already been concluded, the impugned order does not reflect the nature of injury caused to the informant and there is no accusation of repeating the blow



against the petitioner, 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 Additional Sessions Judge, 7th Danapur at Patna, in connection with Khiri More P.S. Case No. 50 of 2019 (Sessions Trial No. 1042 of 2020).

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 Additional Sessions Judge, 7th Danapur at Patna, in connection with Khiri More P.S. Case No. 50 of 2019 (Sessions Trial No. 1042 of 2020).

The learned Court below will further 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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