

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23867 of 2020

Arising Out of PS. Case No.-30 Year-2020 Thana- GOPALPUR District- Gopalganj

Raju Sah Son of Late Baharan Sah Resident of Village - Sonipur, P.S. -
Gopalpur, District - Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vishwajeet Kumar Mishra, Advocate

For the Opposite Party/s : Mr. J.N. Thakur, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 18-09-2020 The Court proceeding has been conducted through
virtual mode.

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

Since the court proceeding in physical mode is
non-functional, due to present pandemic, COVID-19, the matter
is listed with defects.

Learned counsel for the petitioner undertakes to
remove the defects within three weeks of resumption of court
proceeding in physical mode. In the eventuality of non-removal
of defects within undertaken period, the office will place the
matter before the bench.

The petitioner is languishing in custody since
15.02.2020 in a case registered for the offences punishable



under Sections 302/34 of the Indian Penal Code and Section 27 of the Arms Act, hence, the prayer for bail has been made through the present application.

The prosecution case, as per the written report of Suganti Devi submitted to the Station House Officer, Gopalpur, is to the effect that on 13.02.2020 the informant had gone for Asha training and while returning on a motorcycle with her husband, on the way, co-accused Rohit Singh, Anurudh Sah, Harendra Sah and Raju Sah, the petitioner and others made the motorcycle of the informant stop and it is alleged that the petitioner caught hold of the husband of the informant and co-accused Harendra Sah resorted to fire on the head of the husband of the informant, consequently, he fell down and accused persons escaped from the scene. Thereafter, the husband of the informant was taken to Sadar Hospital from where he was referred to Gorakhpur but on the way, the husband of the informant succumbed to the injury.

It is submitted by learned counsel for the petitioner that the accusation against the petitioner is of catching hold of the husband of the informant and there is no accusation of assault against the petitioner. The petitioner has falsely been implicated in the present case since he was in inimical terms



with the informant from before. It is further submitted that Gopalpur P.S. Case No. 17 of 2001 was filed for the murder of the father of the petitioner against the deceased, i.e., the husband of the informant and his father, Rajendra Singh and the sessions trial is going on. The grandfather of the petitioner namely, Dukhi Sah had filed a title suit being Title Suit No. 300 of 2000 in which Rajendra Singh, the father of the husband of the informant was defendant which was decreed on 24.02.2009 against the father of the deceased, against which father of the deceased had filed Title Appeal No. 26 of 2009 which was also dismissed on 27.09.2016 and in the said inimical background between the parties, the petitioner has falsely been roped in the present case. The investigation has already been concluded and statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

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

Considering the fact that the accusation of firing has not been levelled against the petitioner, the accusation has been levelled in the background of serious litigated relationship between the parties and investigation has already been



concluded, coupled with the statement made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent, 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 Chief Judicial Magistrate, Gopalganj in connection with Gopalpur P.S. Case No. 30 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 upon 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 Chief Judicial Magistrate, Gopalganj in connection with Gopalpur P.S. Case No. 30 of 2020.

The learned Court below is at liberty to further



extend the period of provisional bail if the court proceeding in physical mode will not resume in next three months.

Accordingly, the application stands disposed of.

(Dinesh Kumar Singh, J)

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