

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70784 of 2019

Arising Out of PS. Case No.-229 Year-2019 Thana- FALKA District- Katihar

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Lalan Yadav, Son of Raj Kumar Yadav, Resident of Narhaiya P.S-Falka
(Pothia), District-Katihar.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar Singh

For the Opposite Party/s : Mr.Gulnar Begum

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 17-03-2020 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner is languishing in custody since
04.07.2019 in a case registered for the offences punishable
under Sections 307 and 506/34 of the Indian Penal Code.

The prosecution case as per the fardbeyan of Kapildeo
Sah recorded by S.I. Amjad Ali, Station House Officer, Pothia
O.P. on 03.07.2019 at 3.00 P.M., is to the effect that in the night
of 02.07.2019 at 12.30 A.M. the informant was sleeping with his
wife, Nilam Devi and all of sudden he woke up on the sound of
gunshot firing and found his wife in injured condition. The
informant saw five persons, Lalan Yadav, the petitioner and co-
accused Milan Yadav, Raj Kumar Yadav, Pankaj Yadav and Jitu
Kumar Yadav fleeing away from the place of the occurrence.

It is submitted by learned counsel for the petitioner



that the First Information Report was recorded after 2 ½ hours of the alleged occurrence and from which it appears that the informant could not see that who actually fired, he only saw five persons fleeing away from the place of occurrence. The FIR does not suggest that except informant and his wife any other person was present on the spot. However, during investigation the son of the informant claims to be eye witness to the occurrence and he has stated that the petitioner Lalan Yadav fired upon his mother. It is further submitted that the petitioner and informant were on inimical terms as the father of the petitioner lodged Falka (Pothia) P.S. Case No. 240 of 2017 with accusation under Sections 341, 323, 504, 354 and 380 of the Indian Penal Code. The petitioner has been roped in the present case only on the basis of suspicion. A statement has been made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP after going through the case diary submits that the informant has not claimed that he saw the actual assailant but the son of the informant has stated that the petitioner has fired upon his mother.

Considering the fact that the fardbeyan of the informant does not suggest the presence of any other person except him and his injured wife on the place of occurrence, the informant



does not claim to identify the assailant and the investigation has already been concluded, coupled with the statement made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent, let the above named petitioner be released on bail, on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Katihar in connection with Falka (Pothia) P.S. Case No. 229 of 2019.

(Dinesh Kumar Singh, J)

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