

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.84431 of 2019

Arising Out of PS. Case No.-493 Year-2019 Thana- SAHARSA District- Saharsa

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ALOK KUMAR @ CHUNNA Son of Arun Saha @ Arun Sah Resident of
Village - Sulindabad, P.S.- Saharsa, District- Saharsa

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Anuj Kumar

For the Opposite Party/s : Mr.Akbar Ali

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

5 22-06-2020 The matter has been taken up through virtual

Court proceeding.

Heard learned counsel for the petitioner and

learned counsel for the State.

The petitioner is languishing in jail since
17.10.2019 in a case registered for the offences
punishable under Sections 307, 34 of the Indian Penal
Code and Section 27 of the Arms Act.

The prosecution case as per the fardbeyan of
Sunil Kumar, recorded by S.I. Masuddin Ahmed on
01.06.2019 at 7:34 A.M is to the effect that on
01.06.2019 at about 2:30 A.M., the informant woke up



and left to attend the call of nature, in the meantime, the informant heard the sound of gunshot from the roof top of the petitioner Alok Kumar and co-accused Anand Kumar which hit the right side of the body of the informant and when the wife of the petitioner raised alarm the petitioner, co-accused Anand Kumar, Deepak Kumar Gupta, Amit Kumar and others escaped from the place of occurrence. It is further alleged that three other unknown persons were also in the the company of the named accused persons.

It is submitted by learned counsel for the petitioner that from perusal of the F.I.R, it appears that the informant did not see as to who fired upon him and he only identified the petitioner at the place of occurrence when there is no means of identification in the mid-night. It is further submitted that there is no accusation of repeating the gun firing. The order of the learned Sessions Judge does not suggest the nature of injury and in the background of earlier land dispute, the



accusation has been levelled against the petitioner. The petitioner and his wife have filed two cases against the informant and family members of the informant which have been brought on record as Annexure-2 series vide Saharsa Sadar P.S. Case No. 933 of 2018 and Complaint Case No. 1050 of 2018 and the present case has been filed against the petitioner as a retaliatory measure.

The petitioner is in custody since 17.10.2019 and the investigation has already been concluded. The petitioner is accused in one other case and the same has been lodged by the informant herself in the background of land dispute in which, he is on bail.

Learned counsel for the informant submits that the fire arm injury was caused by the petitioner and the injury has been found grievous and he is named in the F.I.R.

Considering the fact that the F.I.R does not suggest that informant saw the assailant firing upon him,



accusation being levelled in the background of admitted land dispute, the investigation being concluded and there being no accusation of repetition of gun firing, 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 learned Chief Judicial Magistrate, Saharsa in connection with Saharsa Sadar P.S. Case No. 493 of 2019.

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. 10,000/-(ten thousands) with two sureties of the like amount each to



the satisfaction of learned Chief Judicial Magistrate,
Saharsa in connection with Saharsa Sadar P.S. Case No.
493 of 2019 including one surety given at the time of
provisional bail.

The learned Court below will be at liberty to
further extend the period of provisional bail if the Court
proceeding in physical mode will not resume in next
three months.

(Dinesh Kumar Singh, J)

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