

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.85041 of 2019

Arising Out of PS. Case No.-92 Year-2019 Thana- GHORASAHAN District- East
Champaran

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Upendra Sah, aged about 40 years, Male, S/o Bindeshwar Sah, R/o village-
Kaswa Kadamwa, P.S.- Ghorasahan, District- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Dilip Kumar Tondon
For the Opposite Party/s : Mr.Nawal Kishore Prasad

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 26-06-2020 Heard both sides through video conferencing.

The petitioner apprehends his arrest in Ghorasahan
P.S. Case No.92 of 2019, registered under Sections 302, 120B
and 34 of the Indian Penal Code and 27 of the Arms Act.

The informant named Awdhesh Sah, Madan Sah,
Pradeep Sah and Suman Saurabh and alleged that they all came
on two motorcycles. They were armed with pistols. When his
younger brother Shambhu Prasad Rai came out from the Block
Office, Awdhesh Sah fired at him. Siyaram Mahto caught
Awdhesh Sah and put him on the ground. Madan Sah fired at
Siyaram Mahto but the shot did not hit him. In the meantime,
Suman Saurabh fired at the temple of Siyaram Mahto. Shambhu
Prasad Rai and Siyaram Mahto died on the spot. The informant



further alleged that after sometime, Hazari Lal Sah, Upendra Sah, the petitioner, and Mishri Lal Sah came and they fired in the air and disclosed that Shambhua was killed.

Learned counsel for the petitioner submits that there is specific allegation against Awdhesh Sah, Madan Sah and Suman Saurabh who are alleged to have fired at Shambhu Prasad Rai and Siyaram Mahto killing them on the spot but the petitioner is alleged to have come after the occurrence. It is submitted that the petitioner has falsely been implicated in the case as much prior to this occurrence, Dasai Sah, the uncle of the petitioner lodged Sikrahna P.S. Case No.66 of 2007. The trial of the aforesaid case is at the fag end and that is why the petitioner has been implicated in the case so that the petitioner who is an injured in the aforesaid case could not depose in the court.

Taking into consideration the facts that the petitioner is not even present at the place of occurrence and the allegation of firing is against three persons, namely, Awdhesh Sah, Madan Sah and Suman Saurabh who killed Shambhu Prasad Rai, brother of the informant, and Siyaram Mahto on the spot, let petitioner, namely, Upendra Sah in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt of the order, be enlarged on bail on



furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned S.D.J.M., Sikrahana at Dhaka, Motihari, East Champaran in connection with Ghorasahan P.S. Case No.92 of 2019, subject to the conditions laid down under Section 438(2) of the Code of Criminal Procedure.

(Prabhat Kumar Jha, J)

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