

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14688 of 2021**

Arising Out of PS. Case No.-139 Year-2019 Thana- MADHEPUR District- Madhubani

RAHUL PANDEY @ RAHUL YADAV @ RAHUL KUMAR Son of Ishki
Pandey @ Iskila Yadav Resident of Village- Neema Chainal Tole,
Eadhikapur, P.S.- Bheja, Distt- Madhubani.

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Hriday Narayan Harshit, Advocate
For the Opposite Party/s : Mr.Brajendra Nath Pandey, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

7 27-10-2021 Heard learned counsel for the petitioner and Mr. B.N.
Pandey, learned A.P.P. for the State.

Petitioner, in the present case, is seeking regular bail in connection with Madhepur P.S. Case No. 139 of 2019 G.R. No. 1514 of 2019 registered for the offences punishable under Section 302/34 of the Indian Penal Code and 25(1-b)a, 26, 27, 35 of the Arms Act. He is in custody since 01.07.2020.

Learned counsel for the petitioner submits that except one case being Marouna P.S. Case No. 109/2019 under Section 379 of the Indian Penal Code, in all other cases the petitioner is on bail.

As per the First Information Report, the petitioner along with co-accused Shiv Kumar Mahto and one other person was going on a motorcycle which collided with a bicycle rider



as a result of which some quarrel was taking place. Father of the informant intervened in the said quarrel in order to save the bicycle rider whereupon co-accused Shiv Kumar Mahto took out his pistol and fired twice upon the father of the informant as a result whereof he suffered two fire-arm injuries and fell down.

Learned counsel for the petitioner submits that from a bare reading of the First Information Report it would appear that the informant has himself stated that his father was sitting in the tea shop of Manay Mandal when at about 5:00 P.M. he saw that a quarrel was taking place between the accused persons who were on a motorcycle with a bicycle rider. The informant further states that he was going towards the Bandh when he heard the sound of firing, he returned and ran towards the shop of Manay Mandal where his father had fallen down. He had seen the co-accused Shiv Kumar Mahto and two others with him who were unknown were fleeing away towards Laxmipur. According to the informant, a large number of persons were present there and they told him that two persons were going on a bicycle towards the Bandh when Shiv Kumar Mahto who was on the motorcycle met accident with the said bicycle. Father of the informant had given 2-3 slaps to Shiv Kumar Mahto while trying to save the bicycle riders whereupon Shiv Kumar Mahto



took out his pistol from his waist and fired two shots on the father of the informant, one of the shots hit on his head and the another on his chest whereafter they fled away.

Learned counsel submits that the specific allegation is against Shiv Kumar Mahto, the alleged occurrence took place when father of the informant was sitting in the tea shop of Manay Mandal, till lodgment of the F.I.R. said Manay Mandal did not say anything about the petitioner but as it appears that subsequently in course of investigation he has made statement that this petitioner was one of the assailants and he took name of this petitioner subsequently in course of investigation saying that he had heard the name of this petitioner when he had come with Shiv Kumar Mahto in his tea shop earlier. The submission is that it is an afterthought and false implication of the petitioner.

It is further submitted that one of the co-accused Bikky Paswan against whom also there is no allegation of firing has been granted bail by learned coordinate Bench of this Court in Cr. Misc. No. 17369/2020. The petitioner has got seven criminal antecedents but learned counsel has tried to explain saying that most of them are under Section 379 I.P.C. and the petitioner is on bail in all the cases except in one case.

On the other hand, Mr. B.N. Pandey, learned A.P.P. for



the State has opposed the prayer for regular bail of the petitioner. Learned A.P.P. submits that later on in course of investigation it has come through two witnesses that one shot was also fired by this petitioner. It is, however, not denied that in the F.I.R. there is a specific pointed allegation of firing only against Shiv Kumar Mahto.

Having regard to the facts and circumstances of the case, there being specific allegation in the F.I.R. that it was co-accused Shiv Kumar Mahto who had fired twice upon the father of the informant hitting him on his head and on chest and both the injuries are specifically attributed to the said firing by Shiv Kumar Mahto, the identity of this petitioner was not disclosed in the F.I.R., though the name of the petitioner has been taken by Manay Mandal later on in course of investigation but with some delay without there being any plausible explanation for the same and the petitioner has never been put on Test Identification Parade as also that co-accused has been granted bail by learned coordinate Bench of this Court, investigation against him is complete but the trial is not likely to take place in near future, hence, this Court directs release of the petitioner above named on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like



amount each to the satisfaction of learned A.C.J.M. - 1st,
Jhanjharpur, District – Madhubani, in connection with
Madhepur P.S. Case No. 139 of 2019, G.R. No. 1514 of 2019,
subject to the condition as laid down under Section 437 (3)
Cr.P.C.

And further condition that the court below shall verify
the criminal antecedent of the petitioner and in case at any stage
it is found that the petitioner has concealed his criminal
antecedent, the court below shall take step for cancellation of
bail bond of the petitioner. However, the acceptance of bail
bonds in terms of the above-mentioned order shall not be
delayed for purpose of or in the name of verification.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

