

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17479 of 2021

Arising Out of PS. Case No.-434 Year-2020 Thana- PATNA CITY CHOWK District- Patna

Giriraj Mahonar Jalan @ Giriraj Manohar Jalan@Munna Jalan S/O Late Hiralaljalan R/O Mohalla-Quila House, Patna City, P.S.-CHOWK, District-Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Adv. Mr. Vinay Mistry, Adv. Mr. Sanket, Adv.
For the Opposite Party/s :		Mr. Shyam Kumar Singh, Adv.
For the informant	:	Mr. Sandeep Kumar, Adv. Mr. Arvind Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

4 13-09-2021 Heard learned counsel for the parties through video conferencing.

The petitioner has preferred this application for grant of regular bail in connection with Chowk P.S Case no.434/2020 registered under sections 307, 147, 148, 149, 331, 323, 447, 448, 379, 504, 506,120B and 34 of the Indian Penal Code and section 27 of the Arms Act.

As per the prosecution case, it is stated by the informant that he is the caretaker. On the date and time of occurrence, the 19 named accused persons as also 40-50 unknown accused came variously armed with revolver, pistol, lathi, iron rod etc. with the intention to take possession of the museum which is in custody of Ravi Jalan. On Ravi Jalan and



the caretakers protesting to the said act, it is stated that on the orders of Bal Manohar Jalan the accused persons started to fire. Giriraj Manohar Jalan fired from behind the curtain hitting Rajeev @ Bujji as a result of which he fell down. It is stated that he may die any time. The other persons saved themselves by fleeing away. It is further stated that the occurrence was seen by the informant and has also been recorded in the CCTV. Information was given to the police personnel with respect to an occurrence on 23.12.2020 also, but no steps were taken.

It is submitted by learned counsel appearing for the petitioner that the petitioner has been falsely implicated in the case. There is case and counter case between the parties. The correct manner of the occurrence has been narrated in Chowk P.S. Case no.435 of 2020 registered by Prerna Jalan, daughter of the petitioner herein and F.I.R of which has been brought on record as Annexure-2 to the petition. It is submitted that the museum in question was given to the petitioner who is in peaceful possession of the same. There are title suits pending between the parties being Title Suit no.45 of 1958/137 of 1965 and Title Suit no.42 of 1993. It was the prosecution side who tried to forcibly take possession of the museum in question which contains valuable articles and the petitioner only tried to protect himself with the help of his licensed arm. It is further



stated that from the materials that has transpired in course of investigation of both the F.I.Rs, it would transpire that it is Ravi Jalan who has residence on the first floor, the prosecution party of the instant F.I.R. are the aggressors and the petitioner himself sustained firearm injury. Further reference is made to sections 97 and 100 of the Indian Penal Code which deals with the right of private defence. It is submitted that the petitioner is in custody since 27.12.2020 and investigation in the case has concluded.

With respect to the medical condition of the petitioner it is submitted that from the medical prescriptions/documents brought on record with respect to the petitioner, the petitioner is an old cardiac patient which has further been confirmed from the report of the medical board constituted in this case which has been submitted before the Court. The petitioner undertakes to abide by the conditions which may be laid by this Court and to cooperate in the trial. Chargesheet having been submitted, there is no chance of the petitioner tempering with the evidence.

The application for bail is opposed by learned APP for the State as also learned counsel appearing for the informant. It is submitted by learned counsel for the informant that so far as the F.I.R. is concerned, there is direct allegation against this petitioner of having fired hitting Rajeev @ Bujji which has been



confirmed in course of investigation. Besides Rajeev himself supporting the allegations in his statement recorded in course of investigation, it is submitted that the doctor has opined the injury to be dangerous to life and the occurrence has been recorded in the CCTV. The CCTV footage has been seen by the police authorities including the Superintendent of Police. It is submitted that the petitioner on being taken into custody had moved on false pretext to the PMCH from where he was shifted to the Indira Gandhi Institute of Cardiology and ultimately moved to jail. If he is released he will not let the trial proceed. It is lastly submitted that from the injury report it would transpire that the injury suffered by Giriraj Manohar Jalan which is on forearm is stated to be simple in nature and there is no mention of the nature of weapon which caused it.

By order dated 24.8.2021 the Court constituted a Medical Board comprising of the Superintendent, Patna Medical College and Hospital ('PMCH' in short), the Director, Indira Gandhi Institute of Cardiology, PMCH and Professor and Head of the Department, Department of Medicine, PMCH to examine and submit detailed report with respect to the petitioner. A report dated 3.9.2021 has been submitted and the finding and opinion of the Board of the three doctors is being reproduced herein below for ready reference:



“Finding and Opinion:- Pain Chest over praecordium on Exertion 01 month. 03 to 04 episode sofar. Each episode is related to exertion also gets sweating. Pain subside after taking rest. No pain at present. Also a Known case of hypertension for over 10 years & Diabetes Mellitus for over 7 years. Patient is taking antidiabetic drugs, Insulin & anti hypertensive drugs. Patient developed pain chest one month ago. Pain chest aggravated on exertion and relieved after rest. History of failed PTCA in the past.

After examination & review of his old investigations and present ECG. The Medical Board is of the view that Giriraj Mahonar Jalan @ Giriraj Manohar Jalan @ Munna Jalan S/o Late Hiralal Jalan is a diagnosed case of coronary artery disease, hypertension, Type-2 Diabetes Mellitus with peripheral neuropathy. Patient is on optimal medical treatment and PTCA was attempted on 16-04-2012 which failed.

Patient needs further sophisticated & higher investigations & management which are unavailable here in PMCH, Patna/IGIC, Patna.

<i>Sd/-</i>	<i>Sd/-</i>	<i>Sd/-</i>
<i>Member</i>	<i>Member</i>	<i>Chairman”</i>

Having heard learned counsel for the parties and taking into consideration the allegations levelled in the F.I.R



wherein this petitioner is stated to have fired hitting Rajeev @ Bujji, the statement of Rajeev @ Bujji recorded in course of investigation under section 161Cr.P.C wherein he has supported the allegations in the FIR against the petitioner together with the injury report of the Nalanda Medical College and Hospital, Patna wherein the doctor on x-ray states that “a radio-opaque foreign body Bullet shaped is seen over 5th Lumber vertebral body on Rt. Side adjacent to Mid line” and in his opinion the said injury was dangerous to life caused by firearm, which is directly attributable to the petitioner here, the Court is not inclined to enlarge the petitioner on bail and the application is rejected.

As in the opinion of the medical board, relevant portion of which is quoted herein above, the petitioner is in need of further higher investigation and management, liberty is granted to the petitioner to renew his prayer for bail after framing of charge.

(Partha Sarthy, J)

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