

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 37555 of 2021**

Arising Out of PS. Case No.-36 Year-2020 Thana- SONBERSA District- Sitamarhi

SHYAM MAHTO @ SHYAM BABU MAHTO Son of - Late Ramchandra
Mahto Resident of Village - Sonbarsa, P.S. - Sonbarsa, Dist. - Sitamarhi.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr Chandra Mohan Jha, Advocate
For the Opposite Party/s : Mr Bhanu Pratap Singh, APP

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

2 13-12-2021 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor (for brevity, *APP*) appearing for
the State of Bihar.

The petitioner seeks bail in Sonbarsa Police Station
(for brevity, *PS*) Case No 36 of 2020 dated 18.02.2020 instituted
for the offence punishable under Sections 302/34 of Indian
Penal Code and Section 27 of Arms Act.

There is allegation in the First Information Report that
the petitioner along with other accused persons, variously
armed, entered the informant's house and dragged her son out of
the house. It is alleged that thereafter they all fired upon the
victim causing his death.

Learned counsel for the petitioner submits that there is



case and counter case between the parties. The implication, in the instant case, is based on extraneous considerations which would be evident from the fact that even minor son of the petitioner Ritik Kumar has been made an accused. Allegations are general and omnibus regarding firing against all accused persons whereas from the order dated 21.08.2021 passed in this case on co-accused Brajesh Bharti @ Brajesh Kumar by this Court in Cr Misc No 30353 of 2021, it would appear that this Court, while granting bail to the said accused, has taken note of the fact that the deceased had sustained only two firearm injuries. The victim was also a man of criminal antecedent and there is strong possibility that he might have been done to death by some or other person. Petitioner was earlier made accused in Sonbarsa PS Case No 134 of 2019 dated 22.06.2019 in which case, he has been exonerated. In the instant case, he is in custody since 07.03.2021, which has wrongly been typed as 07.03.202 in paragraph 16 of the bail application.

Learned APP has opposed the prayer for bail.

Having considered the rival submissions, this Court, for the purposes of grant of bail, is inclined to accept the submissions advanced by the petitioner's counsel. Prayer for bail is allowed. Let the petitioner, above named, be released on



bail on his furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Additional Chief Judicial Magistrate VII, Sitamarhi in Sonbarsa PS Case No 36 of 2020 subject to the following conditions:-

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

Learned counsel for the petitioner is expected to honour his undertaking given in the instant proceedings today for depositing requisite Court fee and removing the defect (s), as pointed out, when called upon to do so.

(Madhuresh Prasad, J)

M.E.H./-

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