

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39316 of 2021

Arising Out of PS. Case No.-48 Year-2020 Thana- BHADAUR District- Patna

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Saina Mahto, S/O Janardan Mahto @ Janardan Prasad, R/O Village-Jandi Nager, P.S-Bhadaur, District-Patna.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Manoj Kumar Pandey, Adv.

For the Opposite Party/s : Mr.Harendra Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 04-08-2021 Heard learned counsel for the petitioner and learned
APP for the State through virtual Court proceedings.

Learned counsel for the petitioner undertakes to remove the defects as pointed out by the office within four weeks of normal functioning of the court, failing which the office is directed to place the matter before the Bench.

Earlier the regular bail application of the petitioner was rejected by this Court vide order dated 27.05.2021 passed in Cr. Misc. No.4672/2020, in which petitioner had no criminal antecedent as stated in para-3 of this application but para-10 of the case diary shows that the petitioner had one criminal antecedent. Now the petitioner has filed fresh bail application.

The petitioner seeks bail in a case registered for the



offence punishable under Sections 147, 148, 149, 341, 342, 323, 307, 302, 120(B), 504 of the Indian Penal Code and Section 27 of the Arms Act.

Prosecution case, in brief is that on 15.05.2020, he was coming alongwith Lalan Kuamr (brother) and Munna Prasad towards P.S. for lodging complaint and when they reached near the house of Sadhu Mahto, then Janardan Mahto @ Jano Mahto alongwith other accused persons have restrained to them and have assaulted. Janardan Mahto @ Jano Mahto having pistol in his hand, who shot fire to Lalan Kumar, then his brother fell down and splashing after sustained firearm injury. When Nago Mahto tried to rescue, then Janardan Mahto @ Jano Mahto again shot fire upon his father, Nago Mahto, which caused injury in his right leg, he also fell down. In the meantime, when he tried to rescue after pickup to his brother, then other accused persons have assaulted to him and caused injury on his head, leg and both hands. They have also assaulted to Munna Prasad. They have committed the occurrence due to previous enmity. All have brought at S.D.H., Barh where, Lalan Kumar has declared dead and his father is in treatment alongwith him.

Learned counsel for the petitioner submits that the



petitioner is innocent and has falsely been implicated in this case. He further submits that there is general and omnibus allegation against the petitioner and there is specific allegation against co-accused namely, Janardan Mahto @ Jano Mahto who fired upon Lalan Kumar and Nago Mahto. The postmortem report of the deceased namely Lalan Kumar, which is mentioned in para-42 of the case diary, in which doctor has opined about cause of death as “shock and haemorrhage lead to cardio respiratory failure due to the injuries caused by fire-arm.” The injury report of Nago Mahto has mentioned in para 44 of the case diary, in which, bullet injuries has found and he is in treatment. There is case and counter case between the parties and both parties are agnates. The petitioner is languishing in judicial custody since 22.07.2020. The petitioner has got one criminal antecedent which is mentioned in para 3 of the bail petition.

Learned APP for the State vehemently opposed the prayer for bail of the petitioner.

Considering the aforesaid facts and circumstances of the case, there is general and omnibus allegation and no specific overt act against the petitioner, let the petitioner, above named, be released on bail on furnishing bail bond of Rs.



25,000/- (Rupees twenty five thousand) with two sureties of the like amount each in connection with Bhadaur P.S. Case No. 48/2020 to the satisfaction of learned Court below where the case is pending/ successor Court; subject to the following conditions:

(1) that one of the bailors will be a close relative of the petitioner, who will be given an affidavit giving genealogy as to how he is related with the petitioner. He will also undertake to inform the Court if there is any change in the address of the petitioner.

(2) that the bailor shall also state on affidavit that he will inform the Court concerned if the petitioner is implicated in any other case of similar nature after his release in the present case and thereafter the Court below will be at liberty to initiate proceeding for cancellation of bail on the ground of misuse.

(3) that the petitioner will be well represented on each and every date fixed in the case and if he fails to do so on two consecutive dates his bail bond will be liable to be cancelled.

(4) that the petitioner shall co-operate with the investigation, if not already concluded and make himself available as and when so required and in case of failure, the



State shall be at liberty to move for cancellation of bail.

(Anjani Kumar Sharan, J)

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