

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36988 of 2020

Arising Out of PS. Case No.-137 Year-2020 Thana- KONCH District- Gaya

Sanjeev Kumar, aged about 19 years, Male, Son of Anil Yadav, Resident of Village Sinduari, P.S. Konch, District Gaya.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner	:	Mr. Kanhaiya Prasad Singh, Senior Advocate
For the State	:	Mr. Ashok Kumar Singh, APP
For the Informant	:	Mrs. Nivedita Nirvikar, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

4 08-03-2021 Heard Mr. Kanhaiya Prasad Singh, the learned Senior Counsel for the petitioner, Mr. Ashok Kumar Singh, the learned Additional P.P. and Mrs. Nivedita Nirvikar, the learned counsel appearing on behalf of the informant.

The petitioner seeks bail in Konch P.S. Case No.137 of 2020, registered under Sections 147, 148, 149, 341, 307, 326, 302, 504 and 506 of the Indian Penal Code and under Sections 27/35 of the Arms Act.

The informant, Abhiram Sharma, who in sum and substance alleged that while he was sitting on his shop, Uday Sharma Kaushik, Griresh Sharma Kaushik, Sri Nath Kumar and Birendra Kumar came to his cement shop for purchasing, but in the meantime, Rakesh Yadav, Vimlesh Yadav, Anil Yadav, Ram Balak Yadav, Raj Kumar Verma and Sanjeev Kumar, the petitioner



having armed with rifle came abusing the informant. On the order of Rakesh Yadav that all assembled person belong to Bhumihar caste, the accused persons began to fire. The firing made by Rakesh Yadav hit on the head of Uday Sharma Kaushik. Vimlesh Kumar fired at Grijesh Sharma Kaushik, which hit in his abdomen and both fell down on the ground. Anil Yadav fired from his rifle on Grijesh Sharma Kaushik, which hit on his chest. Sri Nath Kumar fired at Raj Kumar, which hit in his abdomen and fell down after becoming unconscious. Ram Balak Yadav fired at Birendra Kumar. Birendra Kumar after having received gun shot injury fell down on the ground. Sanjeev Kumar, the petitioner, is said to have fired running towards the informant, but the informant some how saved his life. The informant further disclosed that on alarm, many persons came and the accused persons threatening to annihilate the members of Bhumihar caste fled away from the place of occurrence.

Mr. Kanhaiya Prasad Singh, the learned Senior Counsel appearing on behalf of the petitioner submits that the petitioner is of course named in the FIR, but the petitioner is not alleged to have fired at any of the deceased or injured. The only allegation against the petitioner is that he fired at Abhiram Sharma, the informant, but Abhiram Sharma did not receive any injury. From disclosure made in the FIR, it appears that there was a caste war,



but the fact is not so. A boy of Bhumihar caste assaulted a boy of Yadav caste in the market and in that background, the occurrence is said to have taken place. It is further submitted that in para 25, 26 and 57 of the case diary, the witnesses have reiterated only this fact that the petitioner ran firing towards the informant, but no firearm injury is caused to the informant. The petitioner is in jail since 08.05.2020. The petitioner has already remained in jail for nine months.

On the other hand, Mrs. Nivedita Nirvikar, the learned counsel for the informant and Mr. Ashok Kumar Singh, the learned Additional P.P. vehemently opposed the prayer for bail and drew my attention towards the statements made by the witnesses in para 25, 26 and 57 of the case diary in which it has been disclosed by the witnesses that the petitioner ran firing towards the informant, but the informant somehow saved his life. It was a providential escape for the informant. It is further submitted that the occurrence took place due to caste war. The petitioner actively participated in the occurrence. It is not a case of no overt act, but rather the fact shows that the petitioner actively participated in the occurrence. Of course the firing made by the petitioner did not hit the informant, therefore, the petitioner should not be granted bail.

Having considered the facts and submissions of both sides and on perusal of the records, it appears that the petitioner is



of course named in the FIR, but the informant did not make allegation that the petitioner fired on any of the injured or the deceased. Two persons after having received gun shot injuries died on the spot and two persons were badly injured. The petitioner is only alleged to have run towards the informant and fired but the informant Abhiram Sharma did not receive any firearm injury. Similar is the statement of the witnesses during the course of investigation in para 25, 26 and 57 of the case diary. Petitioner is in jail since 08.05.2020. The petitioner has already remained in jail for nine months.

Taking into consideration the facts and nature of allegations made against the petitioner and the fact that the petitioner is not the assailant of the deceased or any of the injured, the petitioner, namely, Sanjeev Kumar is directed to 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 A.C.J.M., 3rd, Gaya in connection with Konch P.S. Case No.137 of 2020.

(Prabhat Kumar Jha, J)

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