

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 9035 of 2021

Arising Out of PS. Case No.-402 Year-2020 Thana- BHABHUA District- Kaimur (Bhabua)

SHIVA SINGH @ SHIVA JEE PATEL SON OF SHREE PRAMOD KUMAR
SINGH RESIDENT OF VILLAGE/MOHALLA- BHABHUA, WARD
No.20, POLICE STATION- BHABHUA, DISTRICT- KAIMUR AT
BHABHUA. Petitioner

Versus

THE STATE OF BIHAR Opposite Party

Appearance :

For the Petitioner/s : Mr.Kali Prasanna Dubey, Advocate
For the Opposite Party/s : Mr. Rajendra Nath Jha, APP.
For the Informant : Mr. Tribhuwan Narayan, Advocate

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 02-07-2021

At the very outset learned Counsel for the petitioner submits that due to inadvertent typographical error instead of “18.8.2020”, the date of petitioner’s arrest has wrongly been mentioned as “27.9.2020”.

In view of sudden resurgence of COVID – 19 infection there is limited functioning of the High Court and therefore the matter has been listed for consideration through virtual mode.

Heard learned Counsel for the petitioner and the learned APP for the State.

This Court would expect that the petitioner’s Counsel would honour his undertaking in the instant proceedings regarding supply of requisite court fee etc. within two weeks from the date he is called upon to do so by the office.

Petitioner seeks bail in Bhabhua (Sonhan) PS Case No. 402 of 2020 registered under Sections 302, 34 of the IPC and Section 27 of the Arms Act.

There is allegation that the accused persons have opposed ploughing in the field by a tractor, which was being done by the informant and his family members. There is allegation that one Rameshwar Singh has fired from his rifle which hit elder brother of the informant and the informant’s elder brother has succumbed to the injuries.

Learned Counsel for the petitioner submits that the



allegations at best against the petitioner is of being part of the unlawful assembly. By virtue of being family member he along with all other family members have been involved in the dispute which arises out of rival claim to a piece of land. Similarly situated co-accused Binod Singh and Pramod Singh have been granted bail in Cr. Misc. No. 79049 of 2021. Against the petitioner, there is no specific overt act alleged and he has no criminal antecedent. FIR has been lodged at different police station which is suggestive of the fact that the informant is not an eye witness to the alleged occurrence. Petitioner has been in custody since 18.8.2020.

Learned Counsel for the informant and the learned APP have opposed the prayer for bail. It is alleged that there is allegation of firing by unlawful assembly. The petitioner was also a party and therefore he cannot escape his criminal liability

Considering the rival submissions as also the facts and circumstances of the case, prayer for bail of the petitioner is allowed. Let the petitioner above named be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of CJM Kaimur at Bhabhua in Bhabhua (Sonhan) PS Case No. 402 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.

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(Madhuresh Prasad, J)

