

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2360 of 2022

Arising Out of PS. Case No.-257 Year-2021 Thana- BARAUNI District- Begusarai

TANIK NISHAD SON OF RAUDI NISHAD R/O VILLAGE- MALHIPUR
BIND TOLI, P.S.- BARAUNI, DISTRICT- BEGUSARAI

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ram Sumiran Rai, Adv.
For the Opposite Party/s : Mr.Zainul Abedin, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 25-05-2022 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks bail in connection with Barauni
(Chakiya) P.S. Case No. 257 of 2021 registered for the offences
punishable under Sections 302 and 34 of the Indian Penal Code
read with Section 27 of the Arms Act.

The learned counsel for the petitioner submits that the
petitioner is in custody since 14.07.2021, charge-sheet has been
submitted in the case and has antecedent of three cases and the
informant alleges that her husband had gone to attend the
marriage of the daughter of Vijay Nishad, when Dilip Nishad,
Jeevan Nishad, Pintu Nishad and Indradev Nishad came
variously armed and asked for Panchayati an thereafter fired
indiscriminately in which her husband received firearm injury



on his stomach and thereafter it is alleged that Moti, Tanik Nishad (petitioner) and Puran also reached the place of occurrence and started firing hitting her husband on head, further the deceased was declared brought dead by the hospital.

The learned counsel submits that from perusal of the allegation as alleged in the F.I.R. it would manifest that though the informant claims to be an eye witness but she is not an eye witness to the occurrence as she alleges that her husband had gone to attend the marriage of the daughter of Vijay Nishad when the occurrence took place and definitely it is not even remotely suggested that the informant had also accompanied her husband. It is next submitted that even presuming what has been alleged is true without admitting for the purpose of bail then the occurrence is alleged to have taken place in two phases; firstly when the petitioner along with three other accused are alleged to have fired indiscriminately hitting the husband of the informant on his stomach and thereafter in the second part of the occurrence it is alleged that three accused persons again fired indiscriminately causing firearm injury on his head, it is submitted that from the postmortem report it would manifest that one injury has been found on the stomach and one injury has been found on the head, as such, the allegation of



indiscriminate firing stands belied, and further reinforces the fact that informant was not an eye witness to the occurrence. The learned counsel further submits that the allegation of firing is general and omnibus in nature.

The learned A.P.P. for the State opposes the prayer for bail of the petitioner but is not in a position to rebut the submissions of the learned counsel for the petitioner that the allegation of firing is general and omnibus in nature as no specific overt act has been alleged against any of the accused and also that the postmortem report reveals that there was only two injury; one on stomach and other on head and, as such, allegation of firing indiscriminately by the accused persons stands belied.

The learned counsel for the petitioner submits that co-accused Dilip Nishad has been granted bail by order dated 17.05.2022 in Cr. Misc. No. 70438 of 2021.

Considering the fact that the petitioner is in custody since 14.07.2021, charge-sheet has been submitted in the case and taking into consideration the submissions made by the learned counsel for the petitioner, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (Rupees Twenty Thousand) with two sureties of the



like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Barauni (Chakiya) P.S. Case No. 257 of 2021 with a condition that one of the bailors of the petitioner shall be his father Raudi Nishad.

Further if the learned court below comes to a conclusion that petitioner after his release is trying to delay the trial of the case in any manner, the court below shall forthwith cancel his bail bonds after recording reasons.

(Satyavrat Verma, J)

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