

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5014 of 2022

Arising Out of PS. Case No.-10 Year-2021 Thana- BARHARA KOTHI District- Purnia

Bhushan Yadav, S/o - Late Baleshwar Yadav @ Balo Yadav R/o Village -
Shishwa, P.S. - Barhara (Raghuvansh Nagar O.P.), District - Purnea.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Thakur, Adv.

Mr.Pawan Kumar, Adv.

For the Opposite Party/s : Mr.Uma Shankar Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

3 20-07-2022

Heard learned counsel for the parties.

Let the defect(s) be removed within four weeks of the
complete start of the physical Court in normal course.

The petitioner is in judicial custody in connection
with S.T. No.201/2021 arising out of Barhara (Raghuvansh
Nagar O.P.) P.S. Case No.10 of 2021 instituted under Sections
147, 148, 149, 341, 342, 323, 307, 302, 120(B) of the Indian
Penal Code and Section 27 of the Arms Act.

The allegation in the FIR is that the informant along
with her brother-in-law and husband were returning after
visiting a doctor, when the accused persons confronted them and
after knowing the identity of her husband, it is alleged that
accused Akhilesh Yadav, Bhushan Yadav and Nityanand Yadav
opened fire which finally resulted into the death of her husband.

In this case case diary as well as postmortem report



was called for vide an order dated 19.05.2022

Learned counsel for the petitioner submits that a perusal of postmortem report would show that there is only one gun shot injury on the person of the deceased inasmuch as there is an entry and exit of the bullet showing two wounds. Thus the theory of all the three accuseds opening fire and killing the informant's husband cannot be accepted and it is an omnibus allegation against all the three of opening fire. He further submits that although as per the FIR, the informant has stated that she was returning home at 02:15 PM in the inquest report as recorded in para-2 of the case diary, the police has taken custody of the dead body at 01:00 PM on the alleged date of occurrence. He lastly submits that the charge-sheet having been submitted he is ready to abide by all the terms and conditions if granted the privilege of bail.

Taking into account that an omnibus allegation has been made against the petitioner herein that he was one of the three accused who opened fire killing the husband of the informant and in view of the fact that there is only one gun shot injury on the person of the deceased, charge-sheet stands submitted and he is in jail since 13.04.2021 (as stated in para-12 of the bail application), this Court is inclined to grant him



privilege of bail but with strict conditions.

Let the petitioner be released on bail on furnishing bail bond of Rs.20,000/-(Rupees Twenty Thousand) with two sureties of the like amount each in connection with S.T. No.201/2021 arising out of Barhara (Raghuvansh Nagar O.P.) P.S. Case No.10 of 2021 to the satisfaction of learned Third Additional Sessions Judge, Purnea, subject to following conditions:

(i) one of the bailor should be the family member of the petitioner, who shall provide official document to show his/her bona fide;

(ii) the petitioner shall appear on each and every date before the Trial court and failure to do so for each and every dates without plausible reasons will entail cancellation of his bail by the Trial court itself;

(iii) the petitioner shall appear before the concerned police station every fifteen days for one year to mark his presence;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidence, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.



With the aforesaid observations, the bail application is
allowed.

(Rajiv Roy, J)

Prakash Narayan /-

U		T	
---	--	---	--

