

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5538 of 2022

Arising Out of PS. Case No.-39 Year-2019 Thana- BARHARA KOTHI District- Purnia

Bhushan Yadav, Son of Late Baleshwar Yadav @ Balo Yadav, Resident of
Village - Shishwa, P.S.- Barhara, (Raghubansh Nagar O.P.), Distt.- Purnea.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajnish Kumar Singh, Advocate

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

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 30-11-2022 Heard learned counsel for the petitioner and learned
APP for the State.

Let the defect (s), as pointed out by the office, be
removed within a period of four weeks.

In the present case, the petitioner seeks bail in
connection with Barhara Kothi (Raghubansh Nagar O.P) P.S.
Case No. 39 of 2019 registered for the alleged offences under
Sections 147, 148, 149, 341, 342, 323, 324, 325, 307, 506 and
120(B) of the Indian Penal Code, Section ¾ of the Explosive
Substance Act and Section 27 of the Arms Act.

As per prosecution case, petitioner and other co-
accused persons and 20-22 unknown persons intercepted the
vehicle of the father of the informant and they opened
indiscriminate firing. Three bombs were thrown by the



petitioner and other two co-accused persons blowing the right leg of the father of the informant.

The learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. Due to political rivalry and family enmity, the present case has been filed by the members of the informant's side who are accused in Barhara (Raghubansh Nagar O.P) P.S. Case No. 38 of 2019 for offences under Sections 302 and 34 of IPC and Section 27 of the Arms Act registered by one Arun Yadav. The wife of Arun Yadav sustained injuries and while being taken to hospital she died on her way. Fardbeyan of Arun Yadav was recorded on 12.02.2019 at 10.35 AM and the case was instituted at 01.15 PM on 12.02.2019. Thereafter, the informant registered this case at 05.00 PM on 13.02.2019 at police station. The occurrence took place in the night of 11.02.2019 but the FIR registered on 13.02.2019 and there is no explanation as to why the report was filed with the police after much delay and after registration of case of the Arun Yadav regarding murder of his wife. Learned counsel further submits that the informant has lodged the present case by way of defence. Even on the facts of the FIR, it is not believable that 38 persons have been sitting in two vehicles then throwing of three bombs inside the car of the



father of the petitioner does not seem plausible. No signs of use of bomb were found either in the car or at the place of occurrence. Moreover, there is general and omnibus allegation against the petitioner and during investigation the injury of the victim has not been collected or produced by the prosecution. Learned counsel further submits that the father of the informant was killed by injured Brij Kishore Yadav in which he was found guilty by the trial court in Sessions Trial No. 211 of 2014 arising out of Barhara (Raghubansh Nagar O.P) P.S. Case No. 133 of 2009. Similarly placed co-accused Dilip Yadav has been granted bail by a Co-ordinate Bench of this Court vide order dated 07.11.2022 passed in Cr. Misc. No. 50554 of 2022. Other co-accused Nityanand Yadav has been granted anticipatory bail vide order dated 20.02.2020 passed in Cr. Misc. No. 85197 of 2019. The petitioner is in custody since 13.04.2021 and the charge-sheet has been submitted in this case.

Learned APP opposes the prayer for bail submitting that specific allegation has been made against this petitioner that he threw bomb causing injury in the leg of the father of the informant.

Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the



lack of substantive material against this petitioner and further considering the period of custody of the petitioner along with submission of charge-sheet against him, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate-cum- Additional Chief Judicial Magistrate-II, Purnea in connection with Barhara Kothi (Raghubansh Nagar O.P.) P.S. Case No. 39 of 2019 corresponding to G.R. No. 491 of 2019 subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions :

(i) One of the bailors will be a close relative of the petitioner.

(ii) The petitioner will remain present on each and every date fixed by the court below.

(iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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