

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7242 of 2022

Arising Out of PS. Case No.-91 Year-2020 Thana- SAHIYARA District- Sitamarhi

Ajay Kapar @ Ajay Kumar Son of Methur Kapar Resident of Village
Pataniya Coat, P.S. Riga, District - Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Shivam, Advocate
For the State	:	Mr. Rajiv Nayan, APP
For the Informant	:	Mr. Ashok Kumar Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 17-10-2022 Heard learned counsel appearing on behalf of the
petitioner, learned APP appearing on behalf of the State and
learned counsel for the informant.

Let the defect(s), if any, be removed within a period
of four weeks from today.

The petitioner seeks bail in connection with Sahiyara
P.S. Case No. 91 of 2020 registered for the offence under
Sections 147, 148, 149, 323, 354, 307 and 302 of the Indian
Penal Code and Section 27 of the Arms Act.

The accused/petitioner is named in the F.I.R. and is in
custody since 23.09.2021.

The allegation against the petitioner is to commit
murder of brother-in-law of the informant and also to cause



grievous injury to his wife and son, alongwith other co-accused persons due to long standing land dispute, for which title suit is pending between the parties.

Learned counsel appearing on behalf of the petitioner submitted that, admittedly, the present occurrence is a free fight in nature, whether both the parties received injuries, and for the same set of occurrence, a counter case was also lodged by petitioner's side registered as Sahiyara P.S. Case No. 92 of 2020, as such, it can be safely gathered that petitioner was not under intention to cause death, as occurrence was a free fight. It is submitted that injuries, which were received by the petitioner's side are explained, where injuries received by informant's side are not explained and, as such, it is not safe to rely upon the allegation, as alleged. It is further submitted that the place of occurrence was full of water, having no sign of blood, which is otherwise very probable, in terms of allegation, particularly, when a gun shot was received. While travelling over the argument, it is submitted that the presence of deceased at the place of occurrence is appearing doubtful, being resident of different village and he was none but a hired man of informant for the present occurrence, which was committed in a planned manner. While concluding the argument, it is submitted



that investigation in this case is complete for which chargesheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP duly assisted by learned counsel for the informant, while opposing the prayer of bail, submitted that informant is the eye witness of the occurrence, specifically, alleging thereof that fire was made by this petitioner, causing death of his brother-in-law. It is submitted that land dispute may be the motive, having no bearing over the merit of the allegation. It is submitted that there is no reason, apparently, to disbelieve the version of the informant, being an eye witness. It is further submitted that the post mortem report is also in corroboration with the manner of firing, where cause of death is due to fire arm injury.

In view of the facts and circumstances, as mentioned above, as specific allegation against this petitioner is available to cause fire arm injury, causing death of brother-in-law of the informant, this Court is not inclined to grant bail to the petitioner, for the present.

Accordingly, the prayer of bail of the petitioner is rejected herewith.

However, learned Trial Court is directed to conclude



the trial within a period of nine (09) months from the date of receipt of this order, by taking the matter on board, on day to day basis, if required.

Superintendent of Police, Sitamarhi is directed to produce the chargesheeted witnesses, as and when directed by the learned Trial Court, so as to conclude the trial within the aforesaid time period, as directed above.

(Chandra Shekhar Jha, J)

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