

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15607 of 2022

Arising Out of PS. Case No.-204 Year-2021 Thana- UDAKISHUNGANJ District-
Madhepura

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Mukesh Mehta Son Of Chandeshwari Mehta Resident Of Village - Yogiraj,
P.S.- Puraini, District - Madhepura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Uday Chand Prasad, Advocate

For the Opposite Party/s : Mr.Shyam Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 30-08-2022 Heard Mr. Uday Chand Prasad, learned counsel appearing

on behalf of the petitioner and Mr. Shyam Kumar Singh, learned

A.P.P. for the State.

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

The petitioner, who is in custody since 19.07.2021, seeks
regular bail in connection with Udakishunganj Town P.S. Case No.
204 of 2021, for the offence punishable under Sections 307 and 34 of
the Indian Penal Code and Section 27 of the Arms Act.

The informant became unconscious after sustaining bullet
injury on chest which was fired by co-accused Suman Mehta. The
allegation against the petitioner is that he had fired on the person of
the informant which had hit lower part of his waist.

Learned counsel appearing on behalf of the petitioner
submits that the victim is the informant, who with his own eyes, had



seen the petitioner to have fired on him in the lower abdomen, however, from the allegation made in F.I.R., it appears that after the first shot he became unconscious which raises doubt that the petitioner had also assaulted on the informant. The informant was taken to the Primary Health Centre but no F.I.R. was lodged by him or by any of his family members. The doctor of the Primary Health Care had also not informed the police for registering FIR, from where informant for better treatment was referred to some specialized hospital. The informant was brought to Paras HMRI Hospital, Patna where the hospital authority also in most negligent manner did not inform the police even they treated the informant for fire arm injury five days. The FIR was lodged on 17.07.2021 and the Fardbeyan of the victim was recorded on 16.07.2021. The delay in lodging of the FIR has not been explained by the informant. Though the informant is the eye witness, the delay in registering FIR creates doubt on the version of prosecution. He further submits that the informant on his own has admitted in the FIR that he had become unconscious after the first bullet shot he had rescued and in unconscious condition he is not expected to identify anyone. Informant was brought to hospital in unconscious state. The delay in lodging F.I.R. leads to false implication of the petitioner due to enmity.

Learned A.P.P. for the State has opposed the prayer for grant of bail to the petitioner. He has submitted that in the present case the informant is the eye witness and he has identified accused



persons who had assaulted him by fire arm weapon and he had sustained two fire arm injury one fired by the co-accused Suman Mehta which hit his chest and the other by the petitioner. Both the injuries are on vital part of body which is corroborated by the injury report. The informant after treatment has lodged the FIR without delay. The I.O. on conclusion of investigation has submitted final form against the petitioner.

Having considered the rival submissions of the parties, allegation made in the F.I.R., materials on record and the impugned order, it appears that the alleged incident had taken place on 12.07.2021 and FIR has been lodged on 17.07.2021 after much delay. Delay has not been explained. The Fardbeyan of informant was not recorded at the place of occurrence or the Primary Health Centre. The distance of police station is just 05 kms from the place of occurrence raises doubt on the version of the informant. Material shows parties were in inimical terms. Petitioner has remained in custody since 19.07.2021, charge-sheet has already been submitted and there is no likelihood of trial to be concluded in the near future the petitioner, above named, be enlarged on bail on furnishing bail bond of Rs. 25,000/- (Rs. Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate 1st Class, Udakishunganj, Madhepura in connection with Udakishunganj P.S. Case No. 204 of 2021, subject to the following conditions:-



(1) Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

(2) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.

(3) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(4) If the petitioner is found involved in similar nature of offence, after his release on bail, the trial Court shall take steps to cancel his bail bonds.

(Purnendu Singh, J)

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