

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24755 of 2022

Arising Out of PS. Case No.-873 Year-2020 Thana- SUPAUL District- Supaul

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Gajendra Pandit Son of Laxmi Pandit Resident of Village - Maura Khap, P.S.-
Shankarpur, District - Madhepura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Arun, Adv

For the Opposite Party/s : Mr. M.K.Nirala, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 16-08-2022 Let the defects, if any, be removed within four weeks
from today.

Heard learned counsel for the petitioner as well as learned
Additional Public Prosecutor for the State.

Petitioner seeks bail in a case registered in connection
with Supaul P.S.Case No. 873 of 2020 for the offences punishable
under Sections 302/34 of the Indian Penal Code and Section 27 of the
Arms Act.

Prosecution case is based on the fardbeyan of the
informant, who alleged that while he was sitting along with his son
in the meantime, his neighbour Siyaram Yadav, Vidyanand Yadav,
Shambhu Yadav and Rajkumar Yadav variously armed came there
and started indiscriminate firing upon his son due to which his son
received gun shot injuries. It is further alleged that his son told to the
informant, his wife, son and other neighbours that all the three sons



of Siyaram Yadav shot him.

Learned counsel appearing on behalf of the petitioner submits that from the FIR, it is evident that the informant and all the family members and neighbours are said to be eye witness to the alleged occurrence and they have categorically stated that co-accused Siyaram Yadav, Vidyanand Yadav, Shambhu Yadav and Rajkumar Yadav shot fire upon the son of the informant causing his death. During the course of investigation his name has transpired on confessional statement of co-accused Shambhu Yadav. It is further submitted that on the alleged date and time of occurrence even the tower location of the mobile of the petitioner was found at Madhepura and not at the place of occurrence but only because of his past criminal antecedent, his name has been implicated in this case. It is lastly submitted that petitioner is in custody since 04.04.2021 and after framing of the charge no prosecution witness has been examined till date.

On the other hand, learned counsel for the State opposed the bail application of the petitioner and submits that the name of the petitioner has transpired in the confessional statement of co-accused, who has categorically stated that the petitioner has actively participated in the said crime and moreover, he is named in nine other criminal cases of serious nature.

Having heard the rival contentions of the parties and taking into consideration the fact that the informant and others, who



claimed themselves to be eye witness have stated the names of the persons, who have fired upon the son of the informant and moreover, the petitioner is not named in the FIR and his name has transpired on the confessional statement. Save and except confessional statement, there is no other material and petitioner is in custody since 23.06.2021 and moreover, only because of criminal antecedent of a persons cannot be kept behind the bar for indefinite period, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge 1st cum Special Judge, Supaul in connection with Session trial no. 312 arising out of Supaul P.S.Case No. 873 of 2020 subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

- (i) The petitioner will cooperate in conclusion of the trial.
- (ii) He will remain present on each and every date of trial till disposal of the case.
- (iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.
- (iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.
- (v) The Court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take step



for cancelling of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above- mentioned order shall not be delayed for purpose of or in the name of verification.

(Harish Kumar, J)

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