

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26857 of 2022

Arising Out of PS. Case No.-606 Year-2021 Thana- NATHNAGAR District- Bhagalpur

Rajesh Mahto Son of Jayram Mahto @ jairam Singh Resident of Village -
Raghopur, Bindtoli, Police Station- parbatta, District - Bhagalpur.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 35335 of 2022

Arising Out of PS. Case No.-606 Year-2021 Thana- NATHNAGAR District- Bhagalpur

Subhash Mahto S/o Janardhan Mahto Resident of Village- Dildarpur, Bind
Toli, P.S.- Nathnagar, District- Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 26857 of 2022)

For the Petitioner/s : Mr. Dr. Manoj Kumar, Adv.

For the Opposite Party/s : Mr. Jai Narain Thakur, APP.

(In CRIMINAL MISCELLANEOUS No. 35335 of 2022)

For the Petitioner/s : Mr. Dhananjay Kumar Gupta, Adv.

For the Opposite Party/s : Mr. Rajeev Nayan (APP 231).

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 06-09-2022 Let the defect(s), if any, be removed within two weeks
from today.

Heard learned counsel for the petitioners and learned
A.P.P. for the State.

The petitioners seek regular bail in connection with
Nath Nagar P.S. Case No. 606 of 2021 lodged under Sections

341, 307, 120(B)/34 of the Indian Penal Code.

As per the prosecution case, the informant has disclosed that he is the sailor of boat. At the night of 10.00 p.m. on 31.10.2021 two persons have requested to visit Dildarpur Bind Tola, after 2 hours they again visited to the informant and instructed to sail the boat, upon denial they have fired on the informant and informant has identified that these 2 persons are son-in-law of Lalo Mahto (namely Rajesh Mahto, the present petitioner) and his friend Natwar Mahto. In the prosecution case it has also been indicated that this event has took place due to his previous enmity with Subash Yadav who attacked on the informant by *Dabiya* before 10 days. This F.I.R. has been lodged during treatment of the informant at Bhagalpur.

Learned counsel for the petitioner of Cr. Misc. No. 26857 of 2022 submits that during course of investigation the statement of witness namely Dinesh Mahto, Singheshwar Mahto and Kalawati Devi has been recorded in paragraph no. 23, 24 and 25 of the care diary in which they stated that they have seen the accused Natwar Mahto to flee with pistol after firing. He further submits that the brother of the informant has disclosed that it is Natwar Mahto who opened fire on the informant and no witness has taken his name (petitioner's name for firing upon

the informant). He further submits that the said petitioner is in custody since 25.01.2022, charge sheet has already been filed in this case and he has having clean antecedent.

Learned counsel for the petitioner of Cr. Misc. No. 35335 of 2022 submits that there is no allegation upon him of firing. In the F.I.R. it is only stated that there is a previous enmity with him of the informant and on his instance the said occurrence took place, that is to say that only on the basis of suspicion the informant has given his name. He further submits that if the allegation of attack by *Dabiya* is correct then the informant ought to file any case against him but there is no such case filed. He further submits that said petitioner is in custody since 20.01.2022, charge sheet has already been filed and he has clean antecedent.

Learned counsel for the State opposes the prayer for bail.

In the present facts and circumstances of this case and the submissions made above, let the petitioners above named, be granted bail on furnishing bail bonds of Rs.30,000/- (Rupees Thirty thousand) each with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate 1st Class, Bhagalpur in connection with Nath Nagar P.S. Case No. 606 of

2021, subject to the conditions as laid down under Section 437(3) of Cr.P.C. with other following conditions:

A. The petitioners shall support in trial and shall appear physically before the lower court on each and every date fixed, in case of non-appearance for two consecutive dates without sufficient cause, shall resulted into cancellation of their bail bond.

B. One of the bailor shall be close relative who shall file affidavit before the court about his relation with the petitioners.

C. The petitioners shall file an affidavit at the time of furnishing of bail bond that they shall not involve in such criminal activity during the continuance of present bail bond, violation of this condition shall be resulted into cancellation of their present bail bond.

With this observation, the bail application stands allowed.

(Dr. Anshuman, J.)

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