

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28472 of 2022**

Arising Out of PS. Case No.-810 Year-2021 Thana- KAHALGAON District- Bhagalpur

MITHUN MANDAL @ MITHILESH KUMAR @ MITHLESH S/o Late
Ram Chandra Mandal R/o village- Saitpura Kulkuliya, P.S.- Kahalgaon,
District- Bhagalpur

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Tarun Prasad Mandal, Advocate
For the Opposite Party/s : Mr. Rajeev Nayan, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 02-09-2022 Heard learned counsel for the petitioner and learned
APP for the State in Virtual Court Proceeding.

Let the defect(s), if any, as pointed out by the
office, be removed within four weeks.

The case is registered under sections 341, 323,
307/34 of the Indian Penal Code, in connection with Sessions
Trial No. 198 of 2022 arising out of Kahalgaon P.S. Case No.
810 of 2021.

The prosecution story alleges that while the
informant was standing near his truck on the road, he found
three persons trying to remove the battery of the truck. When he
objected to it, on the order of one accused, it is alleged that this



petitioner opened fire causing injury on his thigh. As the local started assembling, they disappeared.

Subsequently, he was taken to Kahalgaon hospital from where Mayaganj hospital, Bhagalpur and finally he was referred to I.G.M.S., Patna from where after treatment he left and at the time of FIR, he was residing at his home, Jamuniya.

Learned counsel for the petitioner submits that the alleged occurrence is of 7.10.2021 whereafter as per the FIR he went to Kahalgaon from there to Bhagalpur and then to Patna and finally to Jamuniya and it was only on 25.11.2021 i.e. after one and half month that he chose to lodge this FIR. In the said backdrop, it cannot be easily attributed that he has named accused persons as per his sweet will and assigned role to them and as such the petitioner against whom there is allegation of firing cannot be taken into account so far as the bail application is concerned. He lastly submits that despite the fact that he has no criminal antecedent, is in custody since 24.01.2022 (as stated in para-9 of the bail application).

Considering all the aforesaid facts that there is inordinate delay in lodging of the FIR and there is no plausible reason for not lodging the same at the first instance, the petitioner has no criminal antecedent, and is in custody since



24.1.2022, this Court is inclined to grant him the privilege of bail. However, if it is found that he has made false statement in para-3 regarding his antecedent, the bail order shall become infructuous.

Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of like amount each to the satisfaction of learned 4th Additional Sessions Judge, Bhagalpur, in connection with Sessions Trial No. 198 of 2022 arising out of Kahalgaon P.S. Case No. 810 of 2021 subject to the following conditions:

(i) one of the bailors should be the family members of the petitioner, who shall provide official document to show his/her bona fide;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reasons will entail his cancellation of bail by the Trial Court itself;

(iii) he shall appear before the concerned police station every fortnight for next six months to mark his presence;

(iv) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty



to take steps for cancellation of his bail bonds.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

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