

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29613 of 2022

Arising Out of PS. Case No.-323 Year-2020 Thana- SHAMBHUGANJ District- Banka

Indra Deo Yadav, Son of Late Ramswaroop Yadav, Resident of village -
Basbitta, P.S.- Shambhuganj, District - Banka.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Praveen Kumar, Advocate

For the Opposite Party/s : Mrs. Rita Verma, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 31-08-2022 Heard learned counsel for the petitioner and learned
APP for the State.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioner seeks bail in connection with Shambhuganj P.S. Case No. 323 of 2020 registered for the alleged offences under Sections 147, 148, 149, 307, 325, 504 and 506 of the Indian Penal Code and Section 27 of the Arms Act.

As per prosecution case, the petitioner and other co-accused persons, variously armed, came to the land of the informant and they said them they would cultivate the said land which was resisted by the informant and thereafter he was assaulted with



khanti and *lathi* and when his family members tried to save him, the petitioner and other co-accused persons also assaulted them and they fell down. The petitioner gave order for killing of the family of the informant. The co-accused Mukesh Yadav fired upon him with the pistol but the shot did not hit to him.

The learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. Learned counsel further submits that there is no specific allegation against the petitioner and the allegation against him and two other co-accused persons, namely Mukesh Yadav and Gangadhar Yadav are similar and these two persons have been granted anticipatory bail by a Co-ordinate Bench of this Court vide order dated 25.04.2022 passed in Cr. Misc. No. 52434 of 2021. This petitioner was also a petitioner there, but due to his arrest, his application for anticipatory bail was withdrawn. Learned counsel further submits that prior to lodging of the case by the informant, this petitioner has lodged Shambhuganj P.S. Case No. 321 of 2020 under various sections of IPC and Arms Act in which one Devendra Yadav, the brother of the petitioner was killed by the informant and his family members and in order to create defense, the present case has been lodged by the informant. It is clear that the informant side was aggressor and



they did not explain the injuries received by the side of the petitioner. The petitioner is in custody since 14.03.2022 and he is having one case pending against him. Charge-sheet has been submitted in this case.

Learned APP opposes the prayer for bail submitting that there is allegation of assault against the petitioner and others. However, he concedes that there is case earlier lodged by this petitioner in which a person sustained injuries and subsequently he died.

Having regard to the submissions made hereinabove and considering the fact that the case and counter case between the parties and the petitioner's side receiving injuries and one of the persons died in the assault allegedly by the informant side and also considering the grant of anticipatory bail to similarly placed co-accused persons and further considering lack of material against the petitioner for any specific overt act, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate, IVth, Banka, in connection with Shambhuganj P.S. Case No. 323 of 2020, subject to the conditions mentioned in Section 437(3) of the



Code of Criminal Procedure and also the following conditions :

- (i) The bail bond of the petitioner will be accepted only after framing of charge, if not already framed.
- (ii) One of the bailors will be the deponent, who has sworn the affidavit.
- (iii) The petitioner will remain present on each and every date fixed by the court below.
- (iv) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

balmukund/-

U		T	
---	--	---	--

