

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34465 of 2022

Arising Out of PS. Case No.-248 Year-2021 Thana- MITHANPURA District- Muzaffarpur

BRAJESH KUMAR JHA @ LALU, S/o Sushil Jha Resident of Village-
Madhopur Susta, P.S.- Sadar, District- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Karandeep Kumar, Advocate
For the Opposite Party/s	:	Mr.Raj Kishore Singh, APP
For the Informant	:	Mr. Santosh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 23-09-2022 Heard learned counsel for the petitioner and learned
APP for the State through virtual court proceeding.

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 Mithanpura P.S. Case No. 248 of 2021 registered for the alleged offences under Sections 302 and 34 of the Indian Penal Code and Section 27 of the Arms Act.

As per prosecution case, the son of the informant was shot dead by three motorcycle borne miscreants while he was doing his duty as guard at the house of his landlord. Petitioner is stated to be one of the accused persons.



Learned counsel for the petitioner submits that petitioner is innocent and has been falsely implicated in this case. It is apparent from the F.I.R. that there is a land dispute between the employer of the deceased namely Kumar Rahul and his cousin Keshav Singh. The witness Rohit Singh is claiming to be an eye witness who alleged that three co-accused persons including this petitioner fired upon the body of the deceased, causing injury on chest but one gunshot injury found on the body of the deceased which was stated to be by co-accused Keshav Singh with whom land dispute is going on. The post mortem report also suggest that the deceased died due to gunshot injury and one gunshot injury found on the person of the deceased. If allegation is against three persons for opening fire, finding of only one injury on the dead body falsifies the allegation against the petitioner. Learned counsel further submits that even otherwise, from the F.I.R it is apparent that allegation of firing upon the deceased is against co-accused Keshav Singh with whom the employer of the informant is having a land dispute. Learned counsel further submits that no empty cartridge was found at the place of occurrence. Only due to the fact that the petitioner is friend of co-accused Keshav Singh, he has been made accused in this case. The fact has been



admitted by the eye witness Rohit Singh that co-accused Keshav Singh fired on the body of the deceased and not this petitioner. Charge sheet has been submitted in this case and the petitioner is in custody since 28.02.2022.

Learned APP for the State as well as learned counsel appearing on behalf of the informant opposes the prayer for bail of the petitioner. It is further submitted by the learned counsel for the informant that petitioner is named in the F.I.R. that he fired upon the son of the informant. Learned APP further submits that the petitioner is a habitual offender and he is accused in two other cases as well.

Having regard to the facts and circumstances and submission made on behalf of the parties especially the fact that fatal shot was fired by the co-accused and also considering the period of custody of the petitioner along with submission of charge sheet against him, 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-IX, Muzaffarpur East, Muzaffarpur in connection with Mithanpura P.S. Case No. 248 of 2021, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure



and also the following conditions:

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) 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)

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