

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34390 of 2022

Arising Out of PS. Case No.-47 Year-2020 Thana- SARE District- Nalanda

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LALLU YADAV Son of Gopi Yadav Resident of village - Gilani, P.S.- Sare,
District - Nalanda

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr Ajay Kumar Thakur, Sr. Advocate

Mr.Udbhav, Advocate

For the Opposite Party/s : Mr. Jitendra Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 12-09-2022 Heard learned Senior counsel for the petitioner duly

assisted by Mr. Udbhav, Advocate and learned counsel for the

State.

Let the defect(s), if any, as pointed out by the office

be removed within four weeks.

The petitioner is in judicial custody in connection

with Sare P.S. Case No. 47 of 2020 for the offences under

Sections 147, 148 and 307 of the Indian Penal Code and Section

27 of the Arms Act.

As per the FIR, the accused persons surrounded the

husband of the informant, namely, Gautam Yadav and it is

alleged that accused Gopi Yadav fired which did not hit him but

then petitioner opened fire causing injury on his head, as a

result whereof, he fell down and the further allegation is that the



accused persons resorted to indiscriminate firing.

Learned Senior Counsel for the petitioner submits that the allegation in the FIR has been exaggerated which can be seen from the following facts :-

(i) the information alleged to have been received in the police station on 14.05.2020 at 8:45 A.M. whereas the FIR was lodged on 16.05.2020 at 9:20 A.M. Why and under what circumstances, there was delay of two days in lodging the FIR, not been explained ;

(ii) although there is direct allegation against the petitioner of opening fire causing head injury to the informant's husband, the injury report annexed as Annexure-5 to the bail application does not match with the allegation inasmuch as it shows laceration on parietal area of head and no bullet injury and the same has been opined to be simple in nature.

Mr. Thakur, learned Senior Counsel as such submits that taking into account the aforesaid facts, it can be easily concluded that the petitioner has falsely been implicated in this case as earlier to the present case an FIR vide Sare P.S. Case No. 44 of 2020 was lodged on 28.04.2020 in which the informant's husband was also made accused.

Mr. Jitendra Kumar Singh, learned APP for the State



submits that there is direct allegation on the petitioner. However, he concedes that the injury report does not match with the said allegation.

Taking into account the aforesaid facts as also that he is in custody since 07.04.2022, charge sheet stands submitted, the injury report does not match with the allegation made in the FIR, this court is inclined to grant him privilege of bail.

If however, it is found that any statement in the bail application is/are incorrect, 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 Sub-Divisional Judicial Magistrate, Nalanda at Biharsharif in connection with Sare P.S. Case No. 47 of 2020, subject to the following conditions:-

(i) one of the bailor should be the family member 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 in no way try to induce or promise or threat the witnesses or tamper with the evidence, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

Nothing observed in the bail application shall be taken into consideration at the time of the trial as the same has been observed only with respect to grant of bail.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

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