

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47195 of 2021**

Arising Out of PS. Case No.-44 Year-2017 Thana- MAHESHKHUNT District- Khagaria

RAJESH YADAV Son of Visho Yadav Resident of Village - Baraita, P.S. -
Gogri, District - Khagaria.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Roshan Kumar Mishra, Adv.

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

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER**

4 05-05-2022 Heard learned counsel for the petitioner and the
learned A.P.P. for the State.

A supplementary affidavit, carrying out necessary correction in the main application, has been filed on behalf of the petitioner, which forms part of this application.

The petitioner seeks bail in a case registered for the offence under Sections 326, 307, 302, 120(B)/34 of the Indian Penal Code and Section 27 of the Arms Act.

The informant alleges that while he was going with Sudhir Yadav and Devo Yadav, the petitioner along with his associates allegedly opened fire upon Devo Yadav which hit him at his back and died during course of the treatment. He further alleged that Sudhir Yadav has also sustained gun shot injuries upon the firing made by the petitioner and his associates.



Learned counsel appearing for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case. He further submits that there is general and omnibus allegation against the petitioner and no specific allegation of assault is attributed to him. He further submits that as per the F.I.R., one Laltu Yadav has stated to have been fired upon the temporal region of the Devo Yadav (deceased). Although the petitioner is alleged to have fired upon the deceased but he has not inflicted gun shot injury on the vital part of the body which may cause death of the deceased. He further submits that the another victim, Sudhir Yadav, has not supported the prosecution version. He further submits that some of co-accused, namely, Murli Yadav and Brajesh Yadav, Bisho Yadav and Shivdani Yadav have been granted bail by different co-ordinate Benches of this Court vide order dated 25.08.2017, 19.09.2017 and 16.10.2019 passed in Cr. Misc. No. 32099 of 2017, 44526 of 2017 and Cr. Misc. No. 52135 of 2019, respectively. The petitioner is rotting in judicial custody since 23.09.2020.

On the other hand, learned A.P.P. for the State has opposed the prayer for bail of the petitioner and submits that it is apparent from the F.I.R. itself that the petitioner has fired upon Devo Yadav causing severe gun shot injury due to which he died. He further submits that witnesses have supported the prosecution version which would be evident from the paragraph



Nos. 09, 10 and 11 of the case diary. The inquest report, which is at paragraph-2 of the case diary, also suggest that the victim died due to gun shot injury and the same has also been supported by the postmortem report, which is at paragraph-61 of the case diary. He further submits that the case of co-accused, who are said to have been granted bail by co-ordinate Benches of this Court, are entirely different to the petitioner as he happens to be one of the main assailant in this case, therefore, benefit of parity may not be granted to the petitioner. He further submits that the petitioner carries four more cases other than the present one.

Considering the facts and circumstances of the case and the manner and nature of accusation levelled against the petitioner as well as the material available on record, this Court is not inclined to grant the privilege of bail to the petitioner. Accordingly, the prayer for bail of this petitioner is rejected.

(Rajesh Kumar Verma, J)

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