

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49959 of 2021

Arising Out of PS. Case No.-97 Year-2020 Thana- PASRAHA District- Khagaria

Rakesh Yadav Son of Late Ganesh Yadav Resident of Village- Basua, P.S.-
Pasraha, District- Khagaria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Viveka Nand Singh, Advocate
For the Informant	:	Mr. Ram Nibash Prasad, Advocate
For the Opposite Party/s	:	Mr. Uday Chand Prasad, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 29-01-2022 Heard learned counsel for the petitioner, learned
counsel for the informant and Shri Uday Chand Prasad, learned
A.P.P. for the State through virtual court proceedings.

The petitioner seeks bail in connection with Pasraha
P.S. Case No. 97 of 2020 instituted for the offences under
Sections 364, 302, 201, 307 and 34 of the Indian Penal Code
read with Section 27 of the Arms Act.

Learned counsel for the petitioner submits that the
petitioner is in custody since 22.06.2021, charge-sheet has been
submitted in the case and has antecedent of eight cases as
mentioned in paragraph '3' of the bail application.

Learned counsel for the petitioner before making
submission on merits submits that it is the antecedent of the



petitioner which has led to his false implication in the present case as would be evident from the submissions made hereinafter.

Learned counsel for the petitioner submits that as per prosecution case the informant, his father and other villagers were engaged in fishing and at about 6.00 pm, petitioner along with eleven other accused persons named in the F.I.R. armed with weapon reached there by boat and opposed the informant side from fishing and they also abused the prosecution party and in the meantime accused Sugan Yadav opened fire as a result of which informant's father received firearm injury and fell down in the boat and died. It is further alleged that other accused persons also made indiscriminate firing.

Learned counsel for the petitioner submits that from perusal of the allegation as alleged in the F.I.R. it would manifest that the informant has not made any specific allegation against the petitioner rather specific allegation of firing is against Sugan Yadav. Learned counsel further submits that since this petitioner is own brother of Sugan Yadav and has antecedents as such he came to be implicated without alleging any specific allegation except that all the accused persons started indiscriminate firing.



Learned counsel for the informant and learned A.P.P. for the State vehemently oppose the prayer for bail of the petitioner but concede that as far as this petitioner is concerned, there is no specific or overt act alleged against him in the F.I.R. but they submit that this petitioner has antecedents and once he is released on bail, it will be difficult for the charges to be framed.

Learned counsel for the petitioner submits that one similarly situated co-accused Vijay Singh has been granted bail vide order dated 02.07.2021 in Cr. Misc. No. 15574 of 2021 but the learned counsel fairly submits that the said petitioner was a person with clean antecedent but then the allegation against that petitioner and the present petitioner is similar and thus on the basis of parity, the learned counsel seeks bail for the petitioner.

Considering the fact that the petitioner is in custody since 22.06.2021, charge-sheet has been submitted in the case, there is no specific allegation against him and co-accused Vijay Singh has been granted bail, let the petitioner above named be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of Shri Deepak Kumar, learned Judicial Magistrate 1st Class, Khagaria in connection with Pasraha P.S.



Case No. 97 of 2020 with a condition that one of the bailors shall be the mother of the petitioner and the petitioner will keep marking his attendance in the concerned police station between 25-30 of every month commencing from February, 2022 till framing of charges and in the event it is reported by the concerned police station to the learned court below that the petitioner in between the aforesaid dates before framing of charge has not marked his attendance in any of the month, the court below will forthwith cancel his bail bonds. Further, the learned court below will get this order served on the concerned police station and the concerned S.H.O. will keep sending the report to the learned court below on the last date of every month till framing of charge that as to whether the petitioner is marking his attendance or not.

(Satyavrat Verma, J)

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