

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49522 of 2021

Arising Out of PS. Case No.-40 Year-2021 Thana- BACHHWARA District- Begusarai

PREM KUMAR CHOUDHARY Son of Late Hilash Choudhary Resident of
Village - Fateha, P.s.- Bachhwara, Distt.- Begusarai.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Jitendra Singh, Sr. advocate Mr. Vibhuti Ranjan Sonvadra
For the State	:	Mr. Akshay Lal Pandit
For the Informant	:	Mr. Sanjeet Kumar

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

5 28-01-2022 Heard learned senior counsel for the petitioner, the
State and the informant.

Petitioner seeks regular bail in a case registered for
the offence punishable under Section 302/120B of the Indian
Penal Code and u/s 27 of Arms Act.

The prosecution case in brief is that one co-accused,
Akhilesh Choudhary, invited the son of the informant on dinner
and when informant reached to the house of Darshan Sada, he
saw that his son was standing near the motor cycle and
thereafter it is alleged that, in the meanwhile, this petitioner
along with three FIR named accused persons and four unknown
persons started firing on the son of the informant. It is further
alleged that co-accused, Gopal Choudhary, fired first at the leg
of informant's son whereafter co-accused, Sushil Choudhary,



fired second shot hitting other leg of the deceased. When the deceased tried to run away, the accused persons chased him and when the deceased fell, this petitioner fired on the back and waist of the deceased and co-accused, Gopal Choudhary, fired on the chest and thereafter all the accused persons also fired on the son of informant. All the accused persons wielding weapons threatened the informant not to lodge the case otherwise he would be killed and fled away. The injured son of the informant was brought to hospital where he was declared dead by the doctor.

Learned senior counsel appearing for the petitioner submits that petitioner is innocent and has falsely been implicated in the case due to previous animosity. It is submitted on behalf of the petitioner that from perusal of FIR it is apparent that informant is an eye witness of the occurrence and has described in great detail the manner in which the accused persons, including this petitioner, caused fire arm injuries to the son of informant resulting in his death. As per FIR it is the specific case of the informant that petitioner fired on the back and waist of the deceased but the allegation is completely falsified by the post mortem report which does not suggest any entry wound caused by fire arm either on the back or waist and



the entry wounds are found on the chest, right thigh and left thigh of the deceased which shall be manifest from a bare perusal of post mortem report. It is next submitted that FIR has been instituted belatedly after an undue delay of 24 hours and much after preparation of inquest report on the basis of injuries reflected therein. In fact informant planted himself as an eye witness of the occurrence. It is next submitted that as per FIR four named and four unknown persons were making indiscriminate firing on the son of informant, in such a situation it is highly improbable that one could pin point whose firing hit which part of the body of deceased. It is next submitted that as per FIR one Sanjeev Kumar also received fire arm injury in the alleged occurrence but he has not been examined by the police during investigation nor his statement has been recorded u/s 161 of the Cr. P. C. Petitioner is in custody since 17.02.2021, that is, near about one year, and investigation against him is complete.

Learned counsel appearing for the State and the informant vehemently opposed the prayer for bail and submitted that petitioner is one of the assailants of the deceased and there is direct and specific allegation against this petitioner that he fired two shots on the deceased resulting in his death. It is



further submitted that after lodging of the present FIR the accused persons are giving threatening to the informant's family to withdraw the present criminal case and for that recently daughter-in-law of the informant has lodged a criminal case bearing Bachhwara PS case No. 176/2021 on 12.08.2021 for the offence u/s 406/420/504/34 of the IPC, copy of which is also annexed as Annexure- R/1 to the counter affidavit filed by the informant.

In reply, learned senior counsel for the petitioner submits that petitioner is neither named in the FIR nor any allegation or whisper is made against him in the aforesaid Bachhwara P.S. case No. 176/2021.

Considering the rival submission of parties, materials on record and the fact that allegation made against this petitioner is not supported by the post mortem report and investigation against this petitioner is complete, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Begusarai in connection with Bachhwara PS case No.40/2021.

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(Prabhat Kumar Singh, J)