

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42183 of 2022

Arising Out of PS. Case No.-274 Year-2017 Thana- KHAGARIA District- Khagaria

Subash Yadav (Mukhiya) S/O Late Surat Lal Yadav, Resident Of Village- Bari Kothiya, P.S.- Mufassil, District- Khagaria.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Pooja Kumari, Advocate

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

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

3 24-11-2022 Let the defect, if any, be removed within two weeks from today.

Heard learned counsel for the petitioner and learned A.P.P. for the State.

The petitioner seeks regular bail in connection with Khagaria (Mufassil) P.S. Case No. 274 of 2017 lodged under Sections 302, 307, 120(B0 and 506/34 of the I.P.C. read with Section 27 of the Arms Act.

As per prosecution, the allegation against the present petitioner is that 4 accused persons including the petitioner had surrounded the informant and started threatening with *desi katta* in their hands. Allegation against accused Dharamveer Yadav is to fire on the chest of the deceased and allegation against the present petitioner is that he only caught the deceased.

Learned counsel for the petitioner submits that petitioner is innocent and has committed no offence. He further submits that the antecedent of the petitioner is not clean and there are 2 criminal cases pending against the petitioner in which he is on bail. Counsel further submits that petitioner is in custody since 18.02.2022 and no direct allegation of making fire is upon him. Counsel further submits that the main allegation against the accused Dharamveer Yadav, having 7 criminal antecedents, has been granted bail by the Co-ordinate Bench of this Court vide order dated 02.11.2020 passed in Cr. Misc. No. 20996 of 2020.

Learned counsel submits that after investigation final form/report under Sections 173/174 of Cr.P.C. has been filed, in which police found this case not true against the present petitioner but Trial Court has taken cognizance, as such counsel for the petitioner submits that it is a fit case to be granted bail.

Learned counsel for the State opposes the prayer for bail.

Learned counsel for the informant vehemently opposes the prayer for bail and submits that the petitioner made suppression from this court. He further submits that in paragraph-3 counsel for the petitioner has shown that there are 2

criminal cases pending against the petitioner, whereas there are in total 7 criminal cases (including the present one) pending against the petitioner, about which he filed a counter affidavit before this Court.

In the present facts and circumstances of this case and the submissions made above, I am not granting bail to the petitioner here due to suppression of fact and his bail is hereby rejected but liberty is hereby granted to the petitioner that in case he shall show to the Trial Court that the counter affidavit filed by the informant before this Court is not correct and there are only 2 criminal cases pending against the petitioner. The Trial Court is directed to release the petitioner on bail.

Acquittal case shall not be treated as pending case.

With this observation, the bail application stands disposed off.

(Dr. Anshuman, J.)

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