

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52361 of 2021**

Arising Out of PS. Case No.-404 Year-2018 Thana- BARARI District- Katihar

Kanik Lal Mahto @ Kanak Lal Mahto S/o Late Kare Gopal Mahto R/O
Village-Gobrahi, P.S-Kursela, District-Katihar.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bimal Kumar, Advocate

For the Opposite Party/s : Mr. Akhileshwar Dayal, APP

**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER**

2 10-02-2022 Heard learned counsel for the petitioner and learned
A.P.P. for the State through virtual court proceedings.

The petitioner seeks bail in connection with Barari
P.S. Case No. 404 of 2018 instituted for the offences under
Sections 302, 201 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 26.04.2020, charges have been
framed on 09.07.2021 and has antecedent of one case as
mentioned in paragraph '3' of the bail application.

Learned counsel for the petitioner submits that the
informant alleges that Upendra Mahto, Kariman Mahto and this
petitioner fired at the elder brother of the informant who died at
the spot. It is further alleged that this petitioner also fired at



Aditya Chaudhary but he managed to save himself by jumping in the river and Sitaram Mahto asked the informant to stop or else they will kill him also.

Learned counsel for the petitioner submits that from perusal of the allegation as alleged in the F.I.R. it would manifest that three accused fired at the elder brother of the petitioner leading to his death but from the post mortem report it is clear that there was only one penetrating wound “over middle of front of chest size-oval in shape $\frac{1}{2}$ " in diameter. Margin-charred inverted and wound on back of chest at left to vertebral column size $1\frac{1}{2}$ " margin everted and injury no.1 was communicating with injury no. 2.”

Learned counsel for the petitioner thus submits that if three persons had fired then there ought to have been three injuries on the deceased but there was only one injury which creates doubt with regard to the veracity of the allegation that as to whether the informant was and eye-witness to the occurrence or not

Learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner.

Considering the fact that the petitioner is in custody since 26.04.2020, charges have been framed and the post



mortem report records only one injury as such the petitioner for the purposes of bail is directed to 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 learned A.D.J.-IV, Katihar in connection with Barari P.S. Case No. 404 of 2018 with a condition that one of the bailor shall be the wife of the petitioner Punam Devi and in the event, if the petitioner on two consecutive dates does not appear in the trial, the court below shall forthwith cancel his bail bonds.

(Satyavrat Verma, J)

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