

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48127 of 2022

Arising Out of PS. Case No.-223 Year-2022 Thana- BARHARA District- Bhojpur

Gopal Singh Son of Sanjay Singh Resident of Village - Nathamalpur, P.s.-
Barahara, Distt.- Bhojpur at Ara.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. Bindhyachal Singh, Senior Advocate Mr. Vipin Kumar, Advocate
For the State	:	Mr. Akhileshwar Dayal, APP
For the Informant	:	Mr. Manoj Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 09-12-2022 Learned counsel for the petitioner undertakes to remove all the defects as pointed out by office within two weeks from today.

Heard learned counsel for the petitioner and Mr. Akhileshwar Dayal, learned A.P.P. for the State as well as Mr. Manoj Kumar, learned counsel for the informant.

Petitioner in the present case is seeking regular bail in connection with Barahara P.S. Case No.223 of 2022 registered for the offences punishable under Sections 147, 148, 149, 307, 302 and 326 of the Indian Penal Code and Section 27 of the Arms Act. He is in custody since 21.03.2022. The petitioner has got one criminal antecedent which has been lodged after this case and his prayer for bail is said to be pending.

Learned counsel for the petitioner submits that as per



the prosecution story, on 20.03.2022 at about 3.00 pm in the first alleged occurrence in which there were some scuffle with the son of the informant, four persons namely Arvind Singh, Gopal Singh (petitioner), Suraj Singh and Nepali Singh had allegedly participated. It is alleged that after the alleged occurrence all the four persons left the spot and thereafter 11 named accused persons came at about 5.00 PM and allegedly fired upon the informant causing injury in his mouth. It is further alleged that one Arvind Singh fired upon the son of the deceased who later on died in course of treatment. It is further alleged that petitioner is one among the 11 named accused persons.

Learned senior counsel for the petitioner submits that the informant is the father of the deceased. From the FIR it would appear that on 20.03.2022 at about 3.00 pm in the first alleged occurrence in which there were some scuffle with the son of the informant, four persons had allegedly participated, one of them is this petitioner. It is alleged that after the alleged occurrence all the four persons left the spot and thereafter 11 named persons came at about 5.00 PM.

It is submitted that the petitioner is one among the 11 named accused persons. No specific weapon has been attributed in his hand. As per the FIR, the co-accused Arvind Singh had



fired upon the deceased. There is no allegation of firing against the petitioner.

Learned senior counsel submits that on a bare reading of the FIR it would appear that there was gap of two hours between the first and second occurrence but the first occurrence was never reported to the police station. According to him, it is case of over implication of the accused.

Learned senior counsel further submits that in the given circumstance when the petitioner has remained in custody since 21.03.2022 and the investigation against him is complete, he deserves privilege of bail.

Mr. Manoj Kumar, learned counsel for the informant has opposed the prayer for bail of the petitioner. It is submitted that in the first occurrence which took place at 3.00 PM it is alleged that son of the informant was beaten by all the four accused persons and this petitioner is one of them. Learned counsel for the informant, however accepts that in the subsequent occurrence which took place at 5.00 PM, there is no specific allegation against the petitioner of actively participating in the alleged occurrence.

Learned APP for the State has also opposed the prayer for bail of the petitioner.



Considering the facts and circumstances of the case wherein as regards the first occurrence no information was given to the police, the allegations are general and omnibus against all the four accused who had allegedly participated in the first occurrence, there being general allegation that in the second occurrence there were 11 persons but no weapon has been attributed to the petitioner and there is no allegation of firing against him, in fact no overt act of any kind has been alleged against this petitioner, the petitioner is in custody since 21.03.2022, investigation against him is complete and at this stage there is no submission either of the informant or the State that his release is likely to result in tampering with the evidence or interfering with the course of trial, this Court directs that the petitioner above named be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned C.J.M., Bhojpur at Ara in connection with Brahara P.S. Case No.223 of 2022, subject to the condition as laid down under Section 437 (3) Cr.P.C.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal



antecedent, the court below shall take steps for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

This application is allowed.

Certified copy of this order shall be made available only after removal of the defects.

(Rajeev Ranjan Prasad, J)

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