

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53364 of 2022

Arising Out of PS. Case No.-120 Year-2022 Thana- HALSI District- Lakhisarai

Nandlal Mahto, Son of Late Baldev Mahto R/O Village- Deera, P.S.- Hilsa,
District- Lakhisarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajesh Ranjan, Advocate

For the Opposite Party/s : Mr. Sanjay Kumar Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 23-12-2022 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Rajesh Ranjan, learned counsel appearing on behalf of the petitioner and learned APP for the State through video conferencing.

The petitioner seeks regular bail, who is in custody in connection with Halsi P.S. Case No. 120 of 2022 registered for the offences punishable under Section 302/34 of the Indian Penal Code and Section 27 of the Arms Act.

The prosecution case is based on a written report filed by the informant alleging therein, that on 26.04.2022, at about 08:45 PM, while the informant and her husband were watering, in the meantime, all the FIR named accused persons along with



three unknown persons reached there and started abusing her husband. When the same was opposed, all the accused persons, including this petitioner took her husband out of the field and co-accused 'Ashok Mahto' and 'Radhe Mahto' opened fire due to which he sustained bullet injury. It is also alleged that this petitioner also fired, but the same did not hit the informant. The reason behind the occurrence is said to be land dispute.

Learned counsel appearing on behalf of the petitioner submits that from the FIR, it is evident that the specific allegation of firing resulting into injury is levelled against 'Ashok Mahto' and 'Radhe Mahto' and so far the petitioner is concerned, admittedly no injury has caused on the firing made by the petitioner. He further drawn the attention of this Court towards the post-mortem report and submits that from the post-mortem report, it is evident that only one bullet injury has been found on the body of the deceased further the post-mortem has been done on 27.04.2022 at about 07.20 AM in the morning but, surprisingly the FIR has been instituted at about 03:10 PM on 27.04.2022 which suggest that before institution of the FIR, investigation has been commenced and the post-mortem has been done and, as such, the possibility of false implication cannot be ruled out. He also submits that the typed copy of the



FIR and the delay in lodging of the same also suggests that the FIR is a piece of afterthought. While concluding his submissions, learned counsel for the petitioner lastly submits that the petitioner is a man of fair antecedent, is in custody since 18.05.2022 and the investigation of the crime is already complete.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that specific allegation has been levelled against the petitioner that he fired upon the informant, however, fortunately it did not hit her.

Regard being had to the submissions made on behalf of the parties and considering the fact that the investigation has commenced and the post-mortem has been done before the institution of the FIR and even as per the allegation, the firing made by the petitioner did not hit anyone, apart from the fact that the petitioner is a man of fair antecedent and the investigation of the crime is already complete, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate II, Lakhisarai, in connection with Halsi P.S.



Case No. 120 of 2022, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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