

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63688 of 2021

Arising Out of PS. Case No.-323 Year-2019 Thana- BASOPATTI District- Madhubani

Ghanshyam Yadav, S/O Madheshwar Yadav, R/o village- Madhiya, P.S.-
Basopatti, District- Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Subhash Kumar Jha, Advocate

For the Opposite Party/s : Mr. Madhura Nand Jha, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

4 23-08-2022 Heard learned counsel for the petitioner and learned
APP for the State.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioner seeks bail in connection with Basopatti P.S. Case No. 323 of 2019 registered for the alleged offences under Sections 302, 506 and 34 of the Indian Penal Code and Section 27 of the Arms Act.

As per prosecution case, the petitioner and other co-accused persons shot dead the son of the informant.

The learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case due to village politics. From the FIR, it is evident that only allegation against the petitioner is that he opened indiscriminate fire but no one was hurt from this firing. There is specific



allegation against Dev Narayan Yadav and Sudhir Yadav, who fired upon son of the informant causing his death. The allegation against these co-accused persons is supported by the post mortem report wherein only two entry wound of firearm were found on head as well as chest which corroborates the allegation made against the co-accused persons in the FIR. It is also apparent from the FIR that there was no intention or motive of the petitioner for being involved in such a crime. The learned counsel further submits that similarly placed co-accused person Madheshwar Yadav has already been granted bail by a Co-ordinate Bench vide order dated 08.10.2021 passed in Cr. Misc. No. 22235 of 2021. The said co-accused is stated to be the order giver. The petitioner is in custody since 31.03.2021. Charge-sheet against him has already been submitted. The petitioner is having clean antecedent.

Learned APP opposes the prayer for bail submitting that there is specific allegation against the petitioner that he opened indiscriminate fire by his gun causing death of son of the informant.

Perused the records.

Having regard to the facts and circumstances and the submission made on behalf of the parties and further considering the fact about petitioner not firing upon the deceased and the allegation against the co-accused is supported by the medical



report for causing death of the son of the informant and also considering the period of the custody along with submission of charge-sheet, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate-1st Class, Madhubani in connection with Basopatti P.S. Case No. 323 of 2019, subject to the conditions mentioned in Section 437(3) of the Cr.P.C. and the following conditions:

- (i) One of the bailors will be Vajindar Yadav, maternal brother of the petitioner, who has sworn the affidavit in this case.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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