

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65060 of 2021

Arising Out of PS. Case No.-277 Year-2019 Thana- BIHARIGANJ District- Madhepura

Jai Chand Yadav, Son of Sri Naresh Yadav Resident of Village- Rahi Pakilpar,
P.S.- Bihariganj, District- Madhepura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. N. K. Agrawal, Sr. Advocate. Mr. Amit Kumar Anand, Advocate.
For the State	:	Mr. Tarun Prasad Mandal, APP.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 22-08-2022 Heard Mr. N. K. Agrawal, learned senior counsel
along with Mr. Amit Kumar Anand, learned counsel appearing
on behalf of the petitioner and Mr. Tarun Prasad Mandal learned
A.P.P. for the State.

Let the defect(s), if any, be removed within two
weeks of the complete start of the physical Court in normal
course.

The petitioner seeks regular bail in connection with
Bihariganj P.S. Case No. 277 of 2019 for the offence punishable
under Sections 302 and 120B of the Indian Penal Code and
Section 27 of the Arms Act.

As per the prosecution case, eleven persons named in
the F.I.R. are alleged to have committed murder of the husband



of the informant. Specific allegation is against co-accused Lalo Yadav who had dragged the deceased and thereafter the accused persons named in the F.I.R. resorted to indiscriminate firing causing death of the husband of the informant.

Mr. N. K. Agrawal, learned senior counsel appearing on behalf of the petitioner submitted that there is general and omnibus allegation against the petitioner. Altogether eleven persons have been named in the F.I.R. Informant is the eye witness who is the wife of the deceased. She has not alleged any specific overt act to have been committed by the petitioner nor there is allegation of firing upon her husband. The allegation is of general and omnibus in nature that all the accused persons resorted to indiscriminate firing upon the husband of the informant who was declared dead on the spot. He further submitted that other co-accused namely Lalo Yadav against whom similar allegation has been made has already been released on bail by a co-ordinate Bench of this Court vide order dated 16.08.2021 passed in Cr. Misc. No. 19427 of 2021. Other co-accused namely Sintu Mehra against whom five criminal cases are pending has already been released on bail by a co-ordinate Bench of this Court vide order dated 26.10.2021 passed in Cr. Misc. No. 19205 of 2021. He has emphatically submitted



that the informant has not made any specific allegation as to whether it was the petitioner who has committed murder of her husband rather she has made general and omnibus allegation against the petitioner that he was also one of the member of the gang which has committed the alleged crime. In absence of any specific overt act to have been alleged against the petitioner, he deserves to be released on bail.

Mr. Tarun Prasad Mandal, learned A.P.P. for the State has opposed the prayer for grant of bail to the petitioner by submitting that the informant who is the wife of the deceased is the eye witness and she has seen the petitioner along with his gang members to have indiscriminately fired upon her husband, who died on the spot. Petitioner has criminal antecedents. If the petitioner is released on bail, it would be against the society.

Having perused the allegation made in the F.I.R., it appears that that there is general and omnibus allegation made against all the accused persons named in the F.I.R. Informant is the eye witness but she has not alleged any overt act to have been committed by the petitioner. No specific allegation has been made so far as the present petitioner is concerned that he is the one who had fired upon the deceased. The post mortem report reveals only four fire arm injuries of entry and



corresponding wound. The Investigating Officer has collected evidence and the testimonies of the witnesses do not support the case of prosecution that the petitioner had fired upon the deceased. In Para-14, 15 and 16 of the case diary, statement of the close relatives have been recorded, which reveals that they were not present at the place of murder. Petitioner has been made accused merely on the basis of suspicion that he had fired upon the deceased. Similarly situated co-accused against whom also there is general and omnibus allegation of having resorted to indiscriminate firing have already been released on bail. Petitioner has brought on record the order granting bail by different co-ordinate Benches of this Court and the orders granting bail are on the record of the bail application. Petitioner has remained in custody since 25.08.2020. Trial is also not likely to be concluded in near future. Prima facie, the petitioner has made out a case to be released on bail.

The petitioner, above named, is directed to be enlarged 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 the learned Judicial Magistrate, 1st Class, Udakishunganj, Madhepura in connection with Bihariganj P.S. Case No. 277 of 2019, subject to the following conditions:-



(1) Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

(2) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.

(3) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(4) If the petitioner is found involved in similar nature of offence, after his release on bail, the trial Court shall take steps to cancel his bail bonds.

(5) The court below is directed to verify the criminal antecedent of the petitioner and if it is found that the petitioner is involved in some other cases as what has been stated in Para-3 of the bail petition, this order will automatically loose its force.

(6) The petitioner will make his attendance before the concerned police station under which his house is located every fortnightly till conclusion of the trial and on any single default without any valid reasons on the part of the petitioner, his bail bonds shall be cancelled and the concerned S.H.O. of the police station shall submit his



**monthly attendance report to the Superintendent of Police,
Madhepura.**

(Purnendu Singh, J)

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