

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64735 of 2021

Arising Out of PS. Case No.-100 Year-2021 Thana- MAHISHI District- Saharsa

Pappu Yadav @ Pappu Kumar, Son of Sri Manoj Yadav, Resident of Village -
Lakhni, P.O.-Telhar, P.S.-Mahishi, District-Saharsa

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Pramod Mishra, Advocate

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

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 15-04-2022 Heard learned counsel for the petitioner and the
learned APP for the State.

The petitioner seeks bail in connection with Mahishi
P.S. Case No.100 of 2021 registered for the offence punishable
under Sections 302, 120B/34 of the Indian Penal Code and
Section 25(1-B)A/26/35/27 of the Arms Act.

While the informant's nephew was atop the school
building along with the petitioner and one co-accused Gaurav
Kumar, it is alleged that one Ankit Yadav arrived at the place
and handed a pistol to the instant petitioner. Thereafter, co-
accused Gaurav Kumar took pistol from the petitioner's hand
and fired upon the informant's nephew, who died while he was
being taken to the hospital.

Counsel for the petitioner submits that from the



narration of events in the FIR, it is obvious that Gaurav had taken the pistol from the petitioner's hand and it is not alleged that the petitioner had in any way exhorted Gaurav to shoot the informant's nephew. The petitioner because of his association with co-accused persons has become a victim of the circumstances and implicated in the instant case, having no criminal antecedents. The petitioner is in custody since 18.06.2021.

Learned APP for the State has opposed the prayer for bail. It is submitted that in the later part of the FIR, the informant has alleged that co-accused Gaurav, Ankit along with the petitioner and other accused persons have committed the alleged offence under a conspiracy.

This Court has considered the rival submissions. From perusal of the FIR, it is obvious that the FIR does not allege the petitioner to be in any way instigating or exhorting Gaurav to fire upon the deceased. Petitioner also has no criminal antecedents. No overt act is alleged against the petitioner and he is in custody since 18.06.202. This Court is thus inclined to accept the submissions advanced by the petitioner's counsel. Prayer for bail of the petitioner is allowed.

Accordingly, let the petitioner, above named, be



released on bail on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned A.C.J.M.-II, Saharsa, in connection with Mahishi P.S. Case No.100 of 2021, subject to the following conditions:

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

This Court would expect that the petitioner's counsel would honour his undertaking in the instant proceedings regarding supply of the requisite court fee etc. within two weeks from the date he is called upon to do so by the office.

(Madhuresh Prasad, J)

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