

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.1738 of 2022**

Arising Out of PS. Case No.-162 Year-2021 Thana- SAUR BAZAR District- Saharsa

KAILASH SAH Son of Sri Jharilal Sah Resident of Village - Itahara, P.O.-  
Gamaharia Rampur, P.S.- Saur Bazar (Bajinathpur O.P.), District - Saharsa.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Bhaskar Shankar, Advocate

For the Opposite Party/s : Mr.Umanath Mishra, APP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA**  
**ORAL ORDER**

3      03-09-2022                      Heard learned counsel appearing on behalf of the  
petitioner and learned counsel appearing on behalf of the State.

Let the defect(s), if any, be removed within a period  
of four weeks from today.

The petitioner seeks bail in connection with Sourbazar  
P.S. Case No. 162 of 2021 registered for the offence under  
Sections 147, 148, 149, 341, 323, 324, 307, 384, 504 and 506  
of the Indian Penal Code and under Section 27 of the Arms Act.

The accused/petitioner is named in the F.I.R. and is in  
custody since 06.09.2021.

The allegation against the petitioner is to cause fire-  
arm injury to brother of the informant, with intention to cause  
death, where occurrence is founded over previous land dispute.

Learned counsel appearing on behalf of the petitioner



submitted that, it is apparent from FIR that petitioner was not carrying pistol, rather it was supplied by co-accused, namely, Dindayal Sah at the time of occurrence, which negate the intention. It is submitted that occurrence is nothing, but a free fight, where, both the parties have received grievous injuries, for which a counter case was also lodged as Sourbazar P.S. Case No. 164 of 2021. It is further submitted that it is settled principle of law that, while taking note of allegation under Section 307 of the I.P.C., prime consideration is intention to cause death not the nature of injury. While concluding the argument, it has been submitted that investigation is complete, for which, charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP, while opposing the prayer of bail, submitted that allegation as regard to causing fire-arm injury is specific against this petitioner but fairly conceded that a case under Section 307 of the I.P.C. was also lodged by the petitioner and his family members, for same set of occurrence.

Considering the facts and circumstances as mentioned above, as occurrence is nothing but a free fight, where petitioner is in custody since 06.09.2021 coupled with the fact that charge-sheet has already been submitted, let the petitioner, above



named, is directed to be released on bail in connection with Sourbazar P.S. Case No. 162 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Saharsa/concerned court, subject to the following conditions as laid down u/s 437(3) of the Cr.P.C.

**(Chandra Shekhar Jha, J)**

R.S.Sen/-

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

