

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67228 of 2021**

Arising Out of PS. Case No.-494 Year-2021 Thana- BANKA District- Banka

Birendra Choudhary Son of Gulabi Choudhary Resident of Village- Mirjapur,
P.s.- Banka (Barahat), District- Banka.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bharat Lal, Advocate

For the Opposite Party/s : Md. Matloob Rab, APP

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

4 12-07-2022 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 Banka
(Barahat) P.S. Case No. 494 of 2021 registered for the offence
under Sections 147, 148, 149, 341, 323, 307, 302 and 120(B) of
the Indian Penal Code and Section 27 of the Arms Act.

The accused/petitioner is named in the F.I.R. and is in
custody since 30.06.2021.

The allegation against the petitioner is of firing upon
the informant and others, causing fire-arms injury.

Learned counsel appearing on behalf of the petitioner
submitted that the basis of the present prosecution is founded



over the previous enmity between the parties, simply for land disputes arises due to storing of sand. It has further been submitted that nothing surfaced during course of investigation, which may suggest that alleged firing was with intention to cause death as nature of occurrence was nothing but free fight between the parties. It has also been submitted that injury received by injured, during course of investigation/occurrence, is simple in nature, further negating the intention of petitioner to cause death. It has further been submitted that the petitioner is a man of clean antecedent. While concluding the argument, it has been submitted that investigation has been completed, for which, charge-sheet has already been submitted, as such, there is no chance of tampering with the evidence.

Learned APP, duly supported with learned counsel for the informant, Sri Mritunjay Prasad, submitted that intention of accused can be gathered from the nature of weapons.

Considering the facts and circumstances as mentioned above, as it is not appearing *prima facie* that firing was made with intention to cause death, as per FIR coupled with the fact that charge-sheet has already been submitted in this case, let the petitioner, above named, is directed to be released on bail in connection with Banka (Barahat) P.S. Case No. 494 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, Banka, subject to the following conditions:

“(i) Accused/Petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner duly supported by the documents.

(ii) That one of the bailors shall be Dhaneshwar Prasad Yadav, who is the Mause (Mother’s Sister’s husband) of the petitioner and deponent of the present bail petition.”

Learned APP has also requested to return the case diary from the Court itself. Let, it shall be handed over to I/O of this case.

The presence of I/O is dispensed with.

(Chandra Shekhar Jha, J)

S.Katyayan/
R.S.Sen/-

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