

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67067 of 2021**

Arising Out of PS. Case No.-99 Year-2020 Thana- SHEIKHOPUR SARAI District-
Sheikhpura

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NIRAJ KUMAR @ NIRAJ YADAV Son of Late Ghutar Yadav @ Krishna
Yadav Resident of Village - Kabirur, P.S.- Shekhopur Sarai, Distt.-
Sheikhpura.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Arvind Kumar, Advocate
For the Informant	:	Mr. Manish Kumar No. II, Advocate
For the Opposite Party/s	:	Mr. Rajendra Singh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 11-04-2022 Heard learned counsel for the petitioner, learned
counsel for the informant and learned A.P.P. for the State.

Let the defect(s), if any, be removed within a period
of four weeks after complete start of the physical Court.

The petitioner seeks bail in a case registered for the
offences punishable under Sections 302/34 of the Indian Penal
Code read with Section 27 of the Arms Act.

Learned counsel for the petitioner submits that the
petitioner is in custody since 20.07.2021, is a person with clean
antecedent and charge-sheet has been submitted.

The informant alleges that he saw the petitioner along
with 11 named accused persons who were in a Scorpio vehicle
getting down from the vehicle and shot the nephew of the



informant, namely, Heman @ Vikash Kumar, who received 10-12 gunshot injury.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. It is submitted that from perusal of the allegation as alleged in the FIR, it would manifest that allegation of firing is general and omnibus in nature. It is further submitted that one Ghutar Yadav had four sons, namely, Alok Yadav, Dheeraj Yadav, Niraj Yadav (petitioner) and Dayanand Yadav. It is further submitted that Ghutar Yadav was killed for which the present petitioner instituted Sheikhopur Sarai P.S. Case No. 23 of 2020 under Sections 307, 302 and 34 of the Indian Penal Code. In the said case, the present informant was also an accused.

Learned counsel for the petitioner, thus, submits that all the four sons of Ghutar Yadav have been made an accused in the present case. It is submitted that it absolutely does not stand to reason that the son had already instituted the aforesaid FIR with regard to killing of his father by the present informant and the other accused persons then why the petitioner would kill the nephew of the informant. If the petitioner had any grievance or enmity that was with the informant and other named accused persons of the said FIR. Learned counsel submits that it appears



that the deceased was killed and the informant took the same as an opportunity to implicate the sons of Ghutar Yadav along with the petitioner to create pressure upon them in order to coerce them so that they do not pursue the aforesaid Sheikhopur Sarai P.S. Case No. 23 of 2020.

Learned counsel for the informant and the learned A.P.P. opposed the bail application and submits that there is allegation of indiscriminate firing by the named accused persons including the petitioner and the deceased received 10-11 gunshot injury and since the parties were on inimical term, as such, the petitioner along with other accused persons killed the nephew of the informant. Learned counsel for the informant further submits that bail of the co-accused Sophal Yadav has been rejected by order dated 28.10.2021 in Cr. Misc. No. 33849 of 2021 and co-accused Vikash Yadav by order dated 17.01.2022 in Cr. Misc. No. 38200 of 2021. It is, thus, submitted by the learned counsel for the informant that to maintain parity the bail application of the present petitioner be also rejected.

Learned counsel for the petitioner rebuts the submissions made by the learned counsel for the informant and submits that the submissions made in the present bail



application was not made in those two applications in which the bail was rejected and the case has to be considered based on its own merit and submissions made by the parties.

Considering the fact that the petitioner is in custody since 20.07.2021, is a person with clean antecedent, charge-sheet has been submitted and taking into consideration the submissions made by the learned counsel for the petitioner, the petitioner, above named, is directed to be released on bail on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Court below where the case is pending in connection with Sheikhopur Sarai P.S. Case No. 99 of 2020.

The petitioner shall be released after framing of charge.

(Satyavrat Verma, J)

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