

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68401 of 2021

Arising Out of PS. Case No.-165 Year-2021 Thana- BAUNSI District- Banka

Nirmal Yadav @ Niranjan Yadav, Son of Jay Prakash Yadav @ Badlu Yadav,
Resident of Village - Sarana, P.S.- Baunsi, District - Banka.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Y.C. Verma, Sr. Advocate Mr. Ugranath Mallik, Advocate
For the State	:	Md. Mushtaque Alam, APP
For the Informant	:	Mr. Om Prakash Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 20-09-2022 Heard learned senior counsel for the petitioner and

learned APP for the State as well as learned counsel for the

informant.

Let the defect (s), as pointed out by the office, be
removed within a period of four weeks from the date of
resumption of physical filing and physical removal of defect.

In the present case, the petitioner seeks bail in
connection with Bounsi P.S. Case No. 165 of 2021 registered for
the alleged offences under Sections 342, 307, 504 and 34 of the
Indian Penal Code and Section 27 of the Arms Act.

As per prosecution case, the informant was shot at by
the petitioner while he was coming home on his motorcycle.

The learned senior counsel for the petitioner submits



that the petitioner is innocent and has been falsely implicated in this case due to political rivalry as the petitioner is a PACS Member and was going to participate in Panchayat Election which was to be held soon. So, the informant, in connivance with others, managed to implicate this petitioner in this false case. Learned senior counsel further submits that the story of the prosecution is not believable that in the night, he identified the petitioner and other co-accused persons. Moreover, if the facts of the FIR are taken to be true, there was no repetition of firing without any intervening circumstances and injury was not on the vital part, so no case of offence under Section 307 of IPC is made out against this petitioner. Learned senior counsel further submits that though the petitioner is having criminal antecedents but he has been acquitted in three such cases and he is on bail in one case. Learned senior counsel further submits that even during investigation, the witnesses have stated about false implication of this petitioner in paragraphs 66, 67, 81, 82 and 85 of the case diary. Petitioner is in custody since 09.09.2021 and charge-sheet has been submitted in this case.

Learned APP as well as learned counsel for the informant vehemently opposes the prayer for bail. Learned counsel for the informant submits that there is specific



allegation against this petitioner that he fired shot at the informant causing injury in his waist.

Perused the records.

Having regard to the facts and circumstance and submissions made on behalf of the parties and considering the nature of allegation against the petitioner coupled with the fact that doubt is created over the involvement of the petitioner in the statement of the witnesses examined during investigation and further considering his period of custody along with submission of charge sheet, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Banka in connection with Bounsi P.S. Case No. 165 of 2021, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions :

- (i) The bail bond of the petitioner will be accepted only after framing of charge, if not already framed.
- (ii) One of the bailors will be a close relative of the petitioner.
- (iii) The petitioner will remain present on each



and every date fixed by the court below.

(iv) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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