

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69713 of 2021

Arising Out of PS. Case No.-21 Year-2020 Thana- ISMAILPUR District- Bhagalpur

Mukesh Yadav, Son of Late Hardev Yadav, Resident of Village - Kamla Kund,
P.S.- Ismilepur, District - Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sharda Nand Mishra, Advocate

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

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 28-09-2022 Heard learned counsel for the petitioner and learned
APP for the State.

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 Ismailpur P.S. Case No. 21 of 2020 registered for the alleged offences under Sections 302, 120B and 34 of the Indian Penal Code and Section 27 of the Arms Act.

As per prosecution case, the petitioner and other co-accused persons assaulted the brother of the informant and they also fired upon him. The allegation against the petitioner is that he fired upon the head of the informant whereas co-accused Mukesh Yadav shot at the brother of the informant at his chest.



The occurrence was seen by the informant and his son.

The learned counsel for the petitioner submits that petitioner is innocent and has been falsely implicated in this case. There is land dispute between the informant and the petitioner's side and for this reason the petitioner has been falsely implicated. Learned counsel further submits that the post mortem report does not support the prosecution case regarding this petitioner firing shot at the head of the deceased. No such injury has been found on the body of the deceased. Moreover, allegations are general and omnibus. Learned counsel further submits that co-accused Vikash Yadav with similar allegation has been granted bail vide order dated 22.02.2022 passed in Cr. Misc. No. 45035 of 2021. Other co-accused persons Bijo Yadav and Fulo Yadav and Sanjo Yadav has also granted bail by different co-ordinate benches vide order dated 23.07.2021 passed in Cr. Misc. No.70 of 2021 order dated 17.03.2021 passed in 39386 of 2020, respectively. The petitioner is in custody since 08.07.2021 and charge-sheet has been submitted.

Learned APP opposes the prayer for bail.

Having regard to the submissions made on behalf of the parties and considering the nature of allegation against the petitioner which is not corroborated by the post mortem report



and further considering lack of any specific overt act attributed to this petitioner apart from the allegation of assault not supported by the post mortem and also considering grant of bail to other similarly placed co-accused persons, 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 Sub-Divisional Judicial Magistrate, Naugachia in connection with Ismailpur P.S. Case No. 21 of 2020, subject to the conditions mentioned in Section 437(3) of the Cr.P.C. and 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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