

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70438 of 2021**

Arising Out of PS. Case No.-257 Year-2021 Thana- BARAUNI District- Begusarai

Dilip Nishad Son of Jogi Nishad Resident of Village - Malhipur, Bind Toli,
P.S.- Barauni, District - Begusarai.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Raj Kumar Sinha, Advocate
For the Opposite Party/s	:	Mr. Bal Mukund Prasad Sinha, A.P.P.
For the Informant	:	Mr. Vinod Gautam, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 17-05-2022 Heard learned counsel for the petitioner, learned
A.P.P. for the State and learned counsel for the informant.

The petitioner seeks bail in connection with Barauni
P.S. Case No. 257 of 2021 registered under Sections 302 and 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 09.08.2021, charge-sheet has been
submitted in the case, has antecedent of one case and the
informant alleges that her husband had gone to attend the
marriage of the daughter of Vijay Nishad, when Dilip Nishad,
Jeevan Nishad, Pintu Nishad and Indradev Nishad came
variously armed and asked for *Panchayati* and thereafter fired
indiscriminately in which her husband received firearm injury
on his stomach and thereafter it is alleged that Moti, Tanik and



Puran also reached the place of occurrence and started firing hitting her husband on head, further the deceased was declared brought dead by the hospital.

The learned counsel submits that from perusal of the allegation as alleged in the F.I.R. it would manifest that though the informant claims to be an eye witness and she is not an eye witness to the occurrence as she alleges that her husband had gone to attend the marriage of the daughter of Vijay Nishad when the occurrence took place and definitely it is not even remotely suggested that the informant had also accompanied her husband. It is next submitted that even presuming what has been alleged is true without admitting for the purpose of bail then the occurrence is alleged to have taken place in two phases; firstly when the petitioner along with three other accused are alleged to have fired indiscriminately hitting the husband of the informant on his stomach and thereafter in the second part of the occurrence it is alleged that three accused persons again fired indiscriminately causing firearm injury on his head, it is submitted that from the postmortem report it would manifest that one injury has been found on the stomach and one injury has been found on the head, as such, the allegation of indiscriminate firing stands belied, and further reinforces the



fact that informant was not an eye witness to the occurrence. The learned counsel further submits that the allegation of firing is general and omnibus in nature.

The learned A.P.P. for the State and learned counsel for the informant oppose the prayer for bail of the petitioner but are not in a position to rebut the submissions of the learned counsel for the petitioner that the allegation of firing is general and omnibus in nature as no specific overt act has been alleged against any of the accused and also that the postmortem report reveals that there was only two injury; one on stomach and other on head and, as such, allegation of firing indiscriminately by this accused person stands belied.

Considering the fact that the petitioner is in custody since 09.08.2021, charge-sheet has been submitted in the case 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. 20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Barauni P.S. Case No. 257 of 2021 with a condition that one of the bailors shall be the father of the petitioner namely Jogi



Nishad.

Further, if the learned court below comes to a conclusion that the petitioner after his release is trying to delay the trial in any manner, the learned court below shall, forthwith, cancel his bail bond after recording reason.

(Satyavrat Verma, J)

ved/-

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