

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71057 of 2021

Arising Out of PS. Case No.-438 Year-2015 Thana- MANER District- Patna

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TUN TUN RAI @ AMRENDRA KUMAR S/o Ram Babu Rai Resident of-
Tata Colony, P.S.- Maner, District- Patna

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. P. K. Sahi, Sr. Advocate.

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

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

6 08-09-2022 Learned counsel for the petitioner is permitted to

remove defect(s), as pointed out by the office, if any, within a

period of four weeks from today.

Heard Mr. P. K. Sahi, learned senior counsel for the

petitioner as well as learned Additional Public Prosecutor for the

State.

The matter is being listed on the urgent motion slip

file by the learned counsel for the petitioner praying therein that

the father of the petitioner is suffering from acute illness and a

supplementary affidavit has been filed in this regard.

The application for grant of bail to the petitioner,

above named, who has been made accused and put behind the

bar in connection with Maner P. S. Case No. 438 of 2015

registered for the offences punishable under Sections 147, 148,



307, 120(B) of the Indian Penal Code and Section 27 of the Arms Act.

As per the prosecution case, it is alleged that on 10.01.2015 at about 05.30 P.M., while the informant was sitting in his house along with driver Anil Kumar, in the meantime, all the accused persons including the petitioner came on Scorpio vehicle and motorcycles and started indiscriminate firing from pistol, gun and rifle. It is also alleged that all the accused persons made 5 to 6 round of firing upon the informant. In the meantime, the petitioner (Tuntun Rai @ Amrendra Kumar) and co-accused Horil Rai fired from their pistols upon him from very close range, causing two fire-arm injuries to the informant on his abdomen.

Learned senior counsel appearing on behalf of the petitioner submitted that from the tenor of the F.I.R., it is evident that the allegation of indiscriminate firing has been levelled against all the F.I.R. named accused persons, however, later on, it is alleged that the petitioner along with Horil Rai fired upon the informant but surprisingly, only one fire-arm injury has been found in the abdomen and as such, it is difficult to suggest as to whose bullet has caused injuries to the injured. It is next submitted that the entire F.I.R. has been instituted on



the backdrop of the business dispute wherein the father of the petitioner and informant were partners in the business of Pocklan machine, which was running on Balughat later on, the informant has transferred his right to one Kamal Rai without giving balance amount to the father of the petitioner. It is further submitted that though the F.I.R. is of 2015, however, the petitioner was Hawaldar in Armed-force and he retired from his service on 25.02.2018. He had also approached before the High Court and lastly to the Supreme Court for grant of anticipatory bail but could not succeed. It is also submitted that in fact, the injured was having multiple criminal antecedent and so far this petitioner is concerned, he is having fair antecedent and a retired army man and has been languishing in jail since 10.09.2021 and moreover, the charges have already been framed. It is next submitted that the petitioner is ready to give undertaking that he will remain physically present on each and every date till the conclusion of the trial and he will not indulge in tampering with the evidences and intimidating the witnesses while concluding the submissions, he last submitted that from the F.I.R., it is evident that the petitioner was having 09 mm pistol in his hand but surprisingly the injury report, prepared by doctor of a private hospital, suggests that the fire-arm injury is caused by



3.15 bullet, which also raises suspicion over the prosecution case.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that there is specific allegation against the petitioner and co-accused Horil Rai that they fired upon the informant and the prosecution case corroborated by the injury report, which suggests that two injuries have been found over the body of the injured.

Regard being had to the submissions made on behalf of the parties and considering the fact that only one injury has been found over the abdomen, which has been alleged to have been caused by two of the persons including the petitioner, apart from the period of custody coupled with the fair antecedent of the petitioner and his undertaking that he will fully cooperate in the trial, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Court of Judicial Magistrate 1st Class, Danapur in connection with Maner P. S. Case No. 438 of 2015, subject to the condition that one of the bailors will be the close relative of the petitioner with further conditions which are as follows:-



- (i) The petitioner will cooperate in conclusion of the trial.
- (ii) He will remain present on each and every date of trial till disposal of the case.
- (iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.
- (iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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