

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13134 of 2023

Arising Out of PS. Case No.-212 Year-2022 Thana- SANDESH District- Bhojpur

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SANJAY CHAUDHARI S/O LATE MUNSHI CHAUDHARY Resident of
Village- Kori, P.S.- Sandesh District- Bhojpur.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Binay Kumar Pandey

For the Opposite Party/s : Mr. Raj Kishor Singh

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CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
ORAL ORDER

4 12-07-2023 Heard learned counsel for the petitioner, learned
counsel for the informant and learned APP for the State.

The petitioner has prayed for regular bail in a case
registered for the offence punishable under sections 147, 148,
149, 341, 323, 427, 302 of the Indian Penal Code and Section
27 of Arms Act.

As per allegation in the FIR, the informant alleged
that on 12.10.2022 when he was sitting at his door
meanwhile, the petitioner along with other co-accused
persons came there and the petitioner said that he was
searching his son. Thereafter, he put his pistol on the chest of
the informant's son namely, Haresh Paswan and fired due to
which he fell down and blood started oozing out from his
body. Further, when the informant was going to hospital by



vehicle for treatment of his injured son, the accused persons including the petitioner surrounded them and Sanjay Chaudhary, this petitioner removed the key of the vehicle and damaged the said vehicle. Thereafter, they fled away from there by opening fire. Somehow, the injured was taken to Sadar hospital, Ara where doctor declared him dead. Accordingly, the present FIR has been lodged.

Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence. He has falsely been implicated in this case due to previous enmity. There is case and counter case between the parties, both have sustained injuries as alleged in separate occurrences. From perusal of case diary, several witnesses have been examined out of them, four witnesses vide para-81, 82, 83, & 84 of the case diary, did not support the prosecution story. These four witnesses categorically stated in their deposition that some altercation took place on the same day between son of the petitioner and the deceased at the egg shop of Ratan Paswan and when the petitioner and others came there to pacify the matter but the informant as well as his other associates started assaulting the petitioner whereupon the petitioner



sustained several injuries. The witnesses also stated that at same time, one co-accused Raju Miya S/o Nadim Ansari put out the pistol from his waist and fired upon the informant's son/deceased namely, Haresh Paswan due to which he sustained gun shot injury and died during course of treatment. There is contradictory between the prosecution and statement of witnesses as the prosecution case shows that this petitioner is main assailant who fired upon the deceased but the witnesses of this case vide para 81 to 84 stated that co-accused Raju Miya shot fire upon the person of the deceased due to which he died. It is also submitted vide para 3 of the supplementary affidavit that the petitioner himself sustained injuries in the alleged occurrence which were inflicted by the informant and his associates and he was arrested from Sadar Hospital, Ara where he was undergoing treatment. Moreover, the petitioner is languishing in judicial custody since 14.10.2022.

Learned APP appearing for the state and learned counsel for the informant have vehemently opposed the prayer of regular bail and submitted that the petitioner is named in the FIR and according to *fardebeyan* of the



informant, the petitioner is main assailant of the alleged occurrence upon whom the specific overt-act is attributed that he fired upon chest of the informant's son/deceased Haresh Paswan due to which he died. From perusal of postmortem report, it transpires that death of the deceased was caused due to firearm injury. It is further submitted that the petitioner has got four criminal antecedents and earlier to the alleged occurrence, the petitioner had also attempted to commit murder of the informant's son.

Having heard learned counsel for the parties and considering the facts and circumstances of the case as well as period of custody of the petitioner, this court is inclined to enlarge the petitioner on bail. The above named petitioner is directed to be released on bail in connection with Sandesh P.S. Case No. 212 of 2022 on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate 1st Class, Bhojpur at Ara.

(Sunil Kumar Panwar, J)

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