

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18527 of 2023

Arising Out of PS. Case No.-127 Year-2019 Thana- PASRAHA District- Khagaria

Azad Yadav, Son of Khajanchi Yadav, R/V- Basuwa, P.S.- Pasraha Dist-
Khagaria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Santosh Kumar Singh, Advocate

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

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 16-05-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. In the present case, the petitioner seeks bail in connection with Pasraha P.S. Case No. 127 of 2019 registered on 01.10.2019 for the alleged offences under Sections 147, 148, 149, 160, 302, 307, 326, 386 of the Indian Penal Code and Section 27(1) of the Arms Act.

3. As per prosecution case, police received secret information about firing being resorted to between two groups due to previous enmity and for establishing supremacy in the area. Police reached and found fired as well as live cartridges at the spot. Police also came to know that in the firing two persons received firearm injury and one died on the spot. Police also came to know about petitioner being member of one of the gang



which had resorted to firing on the other gang.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. As the informant is not an eye witness and none of the persons have named, who told the informant about the name of the miscreants and the occurrence. Moreover, the occurrence took place in the dead of night and there was no means of identification so it is not possible to identify any person in the absence of light. Learned counsel further submits that during investigation the statement of the injured was recorded under Section 161 Cr.P.C., who stated that co-accused Sugne Yadav fired with rifle upon deceased Sadanand Kumar and received injury from firing made by co-accused Rakesh Yadav when petitioner did not attribute any overt act. The petitioner was not present on the spot and he has been falsely implicated in this case. A number of co-accused persons, who are similarly placed with this petitioner, have been granted bail by different Coordinate Benches vide orders dated 04.09.2020, 20.10.2020, 20.01.2021, 02.07.2021, 28.02.2022, 23.05.2022, 22.11.2022 and 15.03.2023 passed in Cr. Misc. Nos. 21675 of 2020, 13850 of 2020, 32985 of 2020, 16362 of 2021, 39768 of 2021, 69341 of 2021, 42977 of 2022 and 7276 of 2023 respectively. The



petitioner is in custody since 10.05.2022 and charge sheet has been submitted. The petitioner is having criminal antecedent of three cases but he is on bail in all the cases.

5. Learned APP opposes the prayer for bail submitting that the petitioner is part of the gang of criminals and in firing one person dead other got injured.

6. Having regard to the facts and circumstance and submissions made on behalf of the parties and considering the fact that there is specific allegation of firing upon the deceased and the injured is against co-accused persons and further considering the grant of bail to other co-accused persons by different Co-ordinate Benches and also lack of specific allegation against the period and further considering the period of custody of the petitioner and submission of charge-sheet, the petitioner above named is directed to be released on bail on furnishing bail bonds of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Khagaria/concerned court in connection with Pasraha (Supplementary) P.S. Case No. 127 of 2019, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions :

- (i) One of the bailors will be a close relative of the petitioner.



- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bonds of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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