

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28141 of 2023

Arising Out of PS. Case No.-28 Year-2020 Thana- NADI P.S. District- Bhagalpur

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Gauri Yadav @ Gaurav Yadav Son Of Nand Kishor Yadav Resident Of
Village - Naya Tola Bhawanpura, P.S.- Kharik, District - Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dilip Kumar, Advocate

For the Opposite Party/s : Mr. Bharat Lal, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 24-05-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

Petitioner seeks bail, who is in custody since
09.02.2022 in connection with Sessions Trial No. 132 of 2022
arising out of Nadi P.S. Case No. 28 of 2020, F.I.R. dated
09.06.2020 for the offences punishable under Sections 307 and
353/34 of the Indian Penal Code and Sections 25(1-b)a, 26, 35
and 37 of the Arms Act.

According to prosecution case, in brief is that the
informant Md. Mahtab Khan, the S.H.O. of Nadi Police Station
has recorded his self statement on 09.06.2020 at 10:00 am at
Mahlaiya (Bolera) Bahiyar alleging therein that for last few
days he was getting information that Sintu Yadav along with his
gang was preparing for some illegal act at Mahlaiya Bolera
Diyara. On the said information he after giving information to



the senior officer headed by S.D.P.O. made a team for raid in which he along officials with armed forces and Chaukidar of all the police station on 09.06.2020 at 02:00 p.m. went on tractor from four different directions and reached at Mahlaiya Bolera Diyara at 07:30 p.m. near the house of Pappu Yadav then after seeing the police party Sintu Yadav fired upon the police party with intention to kill and tried to disturb in official duty and tried to run away into forest (jungle) with his other three associates. The police anyhow arrested two accused persons and Sintu Yadav along with his one other associate anyhow skipped and ran towards jungle. The informant stated that both the caught persons disclosed their names as Mausam Yadav and Sattan Kumar as there was no independent witness at that place so in the presence of Chaukidar 5/11 Goverdhan and 3/2 Upendra Kushwaha made the search according to law of two accused persons arrested and from Mausam Yadav recovered 315 bore rifle and five piece of 315 bore cartridges. After opening the magazine of rifle the informant found four live cartridges of 315 bore. And from Sattan Kumar they found one country made Katta loaded with cartridge. After opening Katta it was found that it was loaded with live 315 bore cartridge. He was having two live cartridges of 315 bore in his waist.

Learned counsel for the petitioner submits that



petitioner is innocent and he has falsely been implicated in the present case. He further submits that the name of the petitioner has been transpired on the basis of disclosure made by the co-accused namely, Mausam Yadav and Sattan Kumar and except the aforesaid, no other cogent material has come during investigation to suggest the involvement of the petitioner in the present occurrence. He further submits that the police after investigation submitted the charge sheet against the petitioner and the petitioner is in judicial custody since 09.02.2022.

The learned Additional Public Prosecutor for the State has vehemently opposed the prayer for bail of the petitioner on the ground that petitioner carries eleven criminal antecedents other than the present one and out of eleven criminal antecedents the petitioner is on bail in three cases.

Considering the aforesaid facts and circumstances, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned 2nd Additional Sessions Judge, Naugachia, District- Bhagalpur, in connection with Sessions Trial No. 132 of 2022 arising out of Nadi P.S. Case No. 28 of 2020, subject to the following conditions:-

1. Petitioner shall co-operate in the trial and



shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

2. If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

3. And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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