

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32083 of 2023

Arising Out of PS. Case No.-159 Year-2021 Thana- BIBHUTIPUR District- Samastipur

Akhilesh Kumar Pathak, Son of Shri Bhuvneshwar Pathak, Resident of
village - Mahthi, P.S. - Bibhutipur, Distt. - Samastipur

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

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

For the Opposite Party/s : Md. Ataur Rahman, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 17-07-2023 Heard learned counsel for the petitioner and
learned Additional Public Prosecutor for the State.

2. The accused/petitioner seeks bail in connection
with S.T. No.377 of 2022 arising out of Bibhutipur P.S. Case
No.159 of 2021 registered for the offences punishable under
Sections 307, 323, 341, 504, 506 of the Indian Penal Code as
well as Sections 25(1-B)(a), 26 and 27 of the Arms Act.

3. The accused/petitioner is named in the FIR and is
in custody since 07.05.2022.

4. Allegation against the petitioner is to open fire
upon his elder brother, who is also the son of informant.

5. It is submitted by learned counsel that as per
narration of FIR, the firing was not made upon informant with
intention to cause his death but, as his younger son, namely,
Bimal Kumar Pathak arrived there to intervene the matter, he



received bullet injury, which was fired upon him intentionally and, as such, it can be safely gathered that the firing was not made with intention to cause death of injured son of informant, namely, Bimal Kumar Pathak. It is submitted that the prime consideration to make out a case under Section 307 of the Indian Penal Code is the intention to cause death and not the injury and moreover in present case, the alleged firearm injury was caused on non-vital part of the body i.e. the leg of the injured. While concluding argument, it is submitted that the petitioner is a man of clean antecedent and moreover investigation of this case has been completed for which, charge-sheet has been submitted and, as such, there is no chance of tampering with the evidence.

6. Learned APP opposes the prayer for grant of bail to the petitioner.

7. In view of above-mentioned facts and circumstances and by taking note of fact as alleged firing was not appears to be made intentional, which hit the non-vital part of the injured, namely, Bimal Kumar Pathak, coupled with the fact that charge-sheet has already submitted, where petitioner is in custody since 07.05.2022, accordingly, the petitioner, above-named, is directed to be released on bail furnishing bail bond of



Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-I, Rosera, Samastipur/successor court in connection with S.T. No.377 of 2022 arising out of Bibhutipur P.S. Case No.159 of 2021, subject to the conditions as laid down under Section 437(3) of the CrPC.

(Chandra Shekhar Jha, J.)

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