

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33539 of 2023

Arising Out of PS. Case No.-242 Year-2022 Thana- NOORSARAI District- Nalanda

Kalendra Yadav, S/O- Rajkumar Yadav Village- Chhatarpur Ps- Noorsarai
Dist- Nalanda

... .. Petitioner/S

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Nawal Kishore Prasad, Advocate
For the Opposite Party/s	:	Mr.Mithlesh Kumar Khare, APP
For the Informant	:	Mr. Abhitabh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 24-06-2023 Heard learned counsel appearing on behalf of the petitioner, learned counsel appearing on behalf of the State as well as learned counsel appearing on behalf of the informant.

Let the defect(s), if any, be removed within a period of four weeks from today.

The petitioner seeks bail in connection with Noorsarai P.S. Case No. 242 of 2022 registered for the offence under Section 341, 324, 326, 307, 504 and 506/34 of the Indian Penal Code and Section 27 of the Arms Act and later on Section 302 of IPC was added.

The accused/petitioner is named in the F.I.R. and is in custody since 15.02.2023.

The allegation against the petitioner is to commit



murder of brother of informant, who received firearm injury during the course of occurrence, where occurrence is arises out of previous enmities, where initially FIR was lodged under Section 307 of the Indian Penal Code.

Learned counsel appearing on behalf of the petitioner submitted that implication of petitioner is only for the reason that he is the brother of main co-accused, namely Shailendra Yadav against whom there is specific allegation to cause fatal firearm injury over the chest of the injured, who died subsequently after two months of the occurrence. It is also submitted that occurrence arises out of previous enmities. It is further submitted that from bare narration of the FIR, it is very clear that even the bullet as alleged to be fired by this petitioner not even touch the body of injured/deceased. While concluding the argument, it is submitted that petitioner found involved in one more criminal case, where he is on bail, and moreover, investigation of this case is completed, for which charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP, duly assisted by learned counsel Mr. Abhitabh Kumar, appearing on behalf of the informant while opposing the prayer of bail submitted that petitioner participated



actively during the occurrence.

Considering the facts and circumstances as mentioned above, as thrust of allegation as to cause fatal firearm injury is available against co-accused, namely, Shailendra Yadav, where admittedly the firing caused by this petitioner not even touch the body of deceased, coupled with the fact that charge-sheet has already been submitted, where petitioner is in custody since, 15.02.2023, accordingly, the petitioner, above named, is directed to be released on bail in connection with Noorsarai P.S. Case No. 242 of 2022 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned J.M.-1st Class, Biharsharif, Nalanda/concerned Court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

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