

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33333 of 2023**

Arising Out of PS. Case No.-478 Year-2022 Thana- KHAGARIA District- Khagaria

PHUDAN YADAV SON OF LATE BAHADUR @ RAM BAHADUR
YADAV RESIDENT OF VILLAGE- SHRINAGAR, PO- CHHARRAPATTI,
PS- SAHEBPUR KAMAL, DISTT- BEGUSARAI, BIHAR

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mritunjay Kumar Singh, Advocate
For the Opposite Party/s : Mr. Jitendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 12-07-2023 Heard the parties.

The petitioner is in custody in connection with Khagaria (Muffasil) P.S. Case No. 478 of 2022 for the offence under Sections 302, 120(B) and 34 of the Indian Penal Code and 27 of Arms Act lodged on 28.05.2022 by the informant, Raja Yadav.

The prosecution case, in brief, is that on 28.05.22, the informant had gone to Rahimpur Dakshin Bahiyar along with his brother, Neta Yadav to get the field measured, on which land measurement was going on for the last twenty days. But the Amin did not come, then he along with his brother Neta Yadav



went home. The informant alongwith Sanjay Yadav and Abhiraj Yadav were already seated. Meanwhile at around ten in the morning the accuseds including Pinku Yadav @ Madhav Yadav, Sinku Yadav alias Girdhar Yadav, Fudan Yadav, Lusho Yadav, Bogan Yadav came out of the forest with their gang armed variously surrounded from all sides.

Further, on the order of and Sinku Yadav, Pinku Yadav alias Madhav Yadav opened fire on Neta Yadav which hit his right ear and the bullet came out from under his left ear. As soon as the bullet hit the informant's brother fell on the ground and died instantly.

Thereafter, the allegation is that Sinku Yadav, Lusho Yadav, Fudan Yadav (petitioner) also opened fire which fortunately did not hit informant side. Due to the firing, the informant side started fleeing away. Thereafter, the accuseds started dragging the dead body of the brother of the informant. However, as the locals confronted, they left the place leaving the body. Thus, the F.I.R.

Learned counsel for the petitioner submits that the main allegation is against Pinku Yadav of opening fire which resulted into death of his brother. So far as this petitioner and other accused persons are concerned, it has been alleged that



they also opened fire which did not hit the informant's side.

The last submission is that he is in custody since 17.12.2022 (as stated in para 6 of the petition).

Learned APP opposes the prayer stating that he has criminal antecedent.

Taking into account the aforesaid submissions that the main allegation is against Pinku Yadav of causing death of the informant's brother and so far as this petitioner is concerned, there is allegation of opening fire which did not hit anyone, is in custody since 17.11.2022, this Court is inclined to extend him the privilege of bail with conditions.

Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of like amount each to the satisfaction of learned Chief Judicial Magistrate, Khagaria, in connection with Khagaria (Muffasil) P.S. Case No. 478 of 2022 subject to the following conditions:

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his/her bona fide;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his



bail bond by the Trial Court itself;

(iii) the petitioner shall appear before the concerned police station every month for one year to mark his attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

With the aforesaid observations, the application is allowed.

(Rajiv Roy, J)

Kiran/Neha/-

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