

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35127 of 2023**

Arising Out of PS. Case No.-12 Year-2022 Thana- NADI P.S. District- Bhagalpur

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MOSAM YADAV S/O LATE SUBODH ADAV R/O Village- Bhawanpura,
P.S- Kharik, Distt.- Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Pandey, Advocate

For the Opposite Party/s : Mr. Nand Kishore Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 12-07-2023 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner is an accused in connection with S.Tr.
No. 1 of 2023 arising out of Nadi (Naugachia) P.S. Case No. 12
of 2022 registered for the offences under sections 302 and 34 of
the Indian Penal Code and section 27 of the Arms Act lodged on
05.04.2022 by the informant, Amish Kumar.

The prosecution case, in brief, is as follows:- The
informant states that on 05-04-2022 at about 7.00 A.M. he was
traveling with his brother Ravish Kumar on his motorcycle
bearing no. BR-10T-6887. One Suman Yadav was also with
them as a pillion rider and all of them were going to Takna



Diyara. At about 7.30 A.M., when the motorcycle reached near maize crop field of one Mahanth Singh they saw Jajla Yadav, 2. Gayanand Yadav, 3. Mausam Yadav, 4. Vilas Yadav, 5. Prabhash Yadav, 6. Badra Yadav, 7. Guddu Paswan, 8. Santosh Paswan and 9. Pankaj Yadav all emerging from maize crop all of sudden caught hold the informant's brother Ravish Kumar who was driving the motorcycle and as a result, motorcycle fell down. All three persons riding and sitting on the motorcycle tried to run away in three different directions in order to escape. The informant's statement is that two of them jumped into the river while his brother ran into the wheat fields.

The informant stated that his brother was chased down by the aforementioned nine criminals and immediately thereafter Jajla Yadav whipped out a country made firearm pointed it at the head of brother of informant and shot him there and again shot on the stomach. It is alleged that all the miscreant fled away in the maize field. The informant stated that Suman Yadav ran towards the police camp of BMP and informed them about the incident and they came soon thereafter on the place of occurrence.

It was only when the BMP police came at the spot the informant came out of the river water to find that his brother has



already died. The informant disclosed the reason of the incident that 9 aforementioned persons have criminal antecedent and were engaged in looting the crop in the Diyara area and when the police camp was stationed in the area to stop such an activity and order to terrorize the farmers to meet the illegal demand the aforementioned offence of murder has been committed. The informant prayed for legal action against the miscreants. Accordingly, the FIR.

Learned Counsel for the petitioner submits that he was only part of the unlawful assembly and specific allegation is against Jajla Yadav of having twice opened fire causing injury on the head and stomach of the informant's brother causing his death.

The last submission is that he do not have criminal antecedent and is in custody since 29.11.2022 (paragraph 4 of the bail application).

Learned APP for the State, on the other hand, opposes the prayer for bail.

Considering the fact that there is specific allegation against Jajla Yadav of causing death of the informant's brother, this petitioner has been alleged to be part of unlawful assembly and is in custody since 29.11.2022 and do not have criminal



antecedent, this Court is inclined to extend him privilege of bail.

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 the learned A.D.J.-III, Naugachia, Bhagalpur in connection with S.Tr.No. 1 of 2023 arising out of Nadi (Naugachia) P.S. Case No. 12 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 *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 next one year to mark 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 his 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 the bail bonds.

With the aforesaid observations, the bail application is
allowed.

(Rajiv Roy, J)

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