

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.35322 of 2023**

Arising Out of PS. Case No.-622 Year-2022 Thana- BARHARA District- Bhojpur

Mithilesh Yadav @ Mithilesh Kumar Yadav son of Sheo Shankar Yadav  
Village- Chhotaka Itahana PS- Barahara (Krishangarh) Dist- Bhojpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Indra Bhushan Tiwary, Advocate

For the Opposite Party/s : Mr. Dr.Mrityunjaya Kr. Gautam, APP

**CORAM: HONOURABLE MR. JUSTICE RAJIV ROY**

ORAL ORDER

3      29-08-2023      Heard the parties.

2. The petitioner is in judicial custody in connection with Barahara (Krishnagarh) P.S. Case No. 622 of 2022 for the offences punishable under Sections 302/201/504/506/34 of the Indian Penal Code and Section 27 of the Arms Act lodged on 22.08.2022 by the informant, Sri Ram Rai.

3. As per the prosecution story, the allegation is that the accused persons including the petitioner caught hold of his son Vishal Yadav and opened fire causing him injury which was seen by his younger son Vikash Kumar who hide himself behind the field of maize. Vishal Yadav was taken for treatment but died midway. Accordingly, the FIR.

4. The learned counsel for the petitioner submits that as against three bullet theory by three accused persons, namely,



the petitioner, Rahul Singh, Rishikesh Kumar, Hareram Yadav and Deepak Yadav, in the post mortem only one pellet injury has been found in the armpit and even the same was retrieved after multiple attempts. He as such submits that the fact remains that as against the three bullet theory as claimed by younger son Vikash Kumar, the fact remains that there is no eyewitness to the occurrence. In that background he deserves bail.

5. Learned APP opposes the prayer concedes that post mortem report is contrary to the allegation made in the FIR.

6. In that view of the matter, the petitioner, who is in custody since 06.09.2022 (para-8 of the petition), is entitled to the relief sought for, this Court is inclined to extend him the privilege of bail with conditions.

7. Let the petitioner, above named, 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, Bhojpur, Ara, in connection with Barahara (Krishnagarh) P.S. Case No. 622 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 fortnight for next six months 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.

8. With the aforesaid observations, the bail application is allowed.

**(Rajiv Roy, J)**

Mkr./-

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