

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33516 of 2022

Arising Out of PS. Case No.-185 Year-2020 Thana- MOKAMAH District- Patna

=====

MITHU YADAV @ MITHLESH YADAV Son of Late Ramjee Yadav
Resident of Village - Panhaipur Gahil Asthan, P.S.- Mokama, District - Patna.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s	:	Mr.Shyam Kumar Singh
For the State	:	Mr.Awadhesh Kumar Singh
For the Informant	:	Mr. Arun Kumar Arun

=====

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

3 19-01-2023 Let the defect(s), as pointed out by the office, be removed within a period of four weeks from today.

Heard learned counsel for the petitioner, learned counsel for the informant and learned A.P.P. for the State.

Supplementary affidavit has been filed on behalf of the petitioner. Let it be kept on record.

The petitioner seeks bail in connection with Mokama P.S. Case No. 185 of 2020 registered for the offences punishable under Sections 147, 148, 149, 302/34 of the Indian Penal Code and Section 27 of the Arms Act.

As per prosecution case, petitioner and others are alleged to have armed with firearms and surrounded the informant's son. It is alleged that co-accused Laxman Yadav



fired which hit on the chest of informant's son. It is further alleged that firing of co-accused Mukesh Yadav hit on the chest of Guddu Kumar, firing of co-accused Nitish Kumar hit on the arm of Guddu Kumar, firing of co-accused Bindeshwar Yadav hit on the upper part of neck of Guddu Kumar, firing of co-accused Dipu Yadav hit on waist of Guddu Kumar and firing of co-accused Nageshwar Yadav hit on the thigh of Guddu Kumar. It is further alleged that accused persons fled away confirming that Guddu Kumar has died.

Learned counsel for the petitioner submits that petitioner is quite innocent and has not committed any offence as alleged in the FIR. He further submits that petitioner bears criminal antecedent of five cases in which he is on bail. Learned counsel further submits that from perusal of the FIR, it is evident that petitioner is only member of mob. There is no specific overt-act against the petitioner. Specific allegations of firing are against co-accused Laxman Yadav, Mukesh Yadav, Nitish Kumar, Bindeshwar Yadav, Dipu Yadav and Nageshwar Yadav. He further submits that brother of present petitioner has filed Mokama P.S. Case No. 172 of 2012 regarding murder of father of petitioner against husband of informant of the present case and others prior to present case and on account of said



reason petitioner has been falsely implicated in the present case. He further submits that on similar allegation co-accused Lalu Yadav has already been granted bail by the co-ordinate Bench of this Court vide Cr. Misc. No. 29226 of 2021 and on the principle of parity the present petitioner also deserves bail. Petitioner is in custody since 13.07.2021. Charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence.

Learned counsel for the informant and learned A.P.P. for the State opposed the prayer for bail of the petitioner by submitting that petitioner is one of the persons who participated in the alleged occurrence. They further submitted that petitioner also bears criminal antecedent.

Considering the facts and circumstances of the case, period of custody, co-accused Lalu Yadav on similar allegation has already been granted bail by the co-ordinate Bench of this court, charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence, argument advanced on behalf of both sides and also taking into consideration the material available on record, let the petitioner above named be released on bail **after framing of charge** on furnishing bail bond of Rs. 10,000/- (Rupees Ten



Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-1, Barh, Patna in connection with Mokama P.S. Case No. 185 of 2020, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on each and every date and if he fails to do so without appropriate permission of trial court, his bail bond shall be cancelled by the trial court itself.

(iii) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Alok Kumar Pandey, J)

shahzad/-

U		T	
---	--	---	--

