

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34386 of 2023

Arising Out of PS. Case No.-459 Year-2021 Thana- ARA NAWADA District- Bhojpur

Jitendra Mahto @ Jitendra Mahato @ Munda Son of Late Ram Niwas Mahto
Resident of Village- Jamira, PO- Jamira, PS- Ara Muffasil, District- Bhojpur

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. N.K. Agarwal, Sr. Advocate Mr. Gaurav Prakash, Advocate
For the Opposite Party/s	:	Mr. Surendra Prasad Singh, APP
For the Informant	:	Mr. Anant Kumar Pandey, Advocate Mr. Ashok Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 17-07-2023 Heard learned Senior counsel Mr. N.K. Agarwal, appearing on behalf of the petitioner, learned counsel appearing on behalf of the State and learned counsel appearing on behalf of informant.

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

3. The petitioner seeks bail in connection with Ara Nawada P.S. Case No. 459 of 2021 registered for the offence under Sections 307/302/34 of the Indian Penal Code and Section 27 of the Arms Act.

4. The accused/petitioner is named in the F.I.R. and is in custody since 03.01.2023.



5. The allegation against the petitioner is to commit murder of brother of informant alongwith other co-accused persons by causing firearm injuries, where occurrence arises on the eve of marriage party, when informant and others objected one Rajesh Kumar, a Camera Man engaged to shoot the occasion to tease female participants.

6. Learned Senior counsel Mr. N.K. Agarwal, appearing on behalf of the petitioner submitted that initially the petitioner was not available on the spot, who alleged to call thereby one of the co-accused, namely, Rajesh Kumar. It is submitted that the narration of FIR creating a doubt that how informant came to know that the assailant was this petitioner because the name of petitioner was taken by a third person during the course of occurrence itself, just before the alleged fatal firing. It is also submitted that the narration of FIR is also not suggesting that the firing was made intentional and as such, the case under Section 302 of the Indian Penal Code, as alleged is not *prima facie* made out against this petitioner. It is further pointed out that if the version of firing is to be taken into consideration then certainly two firearms injuries to be found upon the deceased but upon postmortem, only single firearm injury was noticed. While concluding the argument, it is



submitted that investigation of this case is completed, for which charge-sheet has been submitted, and, as such, there is no chance of tampering with the evidence.

7. Learned APP, duly assisted by Mr. Anant Kumar Pandey, appearing on behalf of informant, while opposing the prayer of bail submitted that specific allegation of firing is available against this petitioner. It is submitted that inquest report suggest two bullet injuries corroborating with finding of two empty cartridges from the place of occurrence itself. It is submitted by learned APP for the State that the injured eye-witness specifically named this petitioner to cause fatal firearm injuries which hit upon the chest of the deceased as mentioned in para 10 of the case diary. It is submitted that there is no apparent reason to disbelieve the version of this eye-witness. It is further pointed out that the mobile tower location of all named accused persons including this petitioner was found with same tower, time and place.

8. Considering the facts and circumstances as mentioned above and by taking note of statement of injured eye-witness, namely, Satyajit Singh, where informant is also the eye-witness that fatal firearms injuries causing death of brother of informant was specifically made by firing of this petitioner,



the prayer of bail of petitioner is rejected herewith.

9. The learned trial Court is directed to conclude the trial expeditiously, preferably within nine months from the date of receipt of this order.

10. The presence of I.O. of this case is dispensed with.

(Chandra Shekhar Jha, J)

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