

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35033 of 2022

Arising Out of PS. Case No.-232 Year-2018 Thana- KAUWAKOL District- Nawada

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UMESH YADAV SON OF SAUKHI YADAV R/O VILLAGE- BENIPUR,
P.S.- RUPAU, DISTRICT- NAWADA.

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Birendra Kumar

For the Opposite Party/s : Mr.Harendra Prasad

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

4 23-01-2023 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 and learned
A.P.P. for the State.

The petitioner seeks bail in connection with Kawakol
P.S. Case No. 232/2018 registered for the offences punishable
under Sections 147, 148, 149 and 307 of the Indian Penal Code
and Section 27 of the Arms Act.

As per prosecution case, on 15.10.2018 the informant,
his son Upendra Yadav, his cousin brother Dalpati Yadav and
other family members were sitting near his house, in the
meantime, all the FIR named accused persons including the
petitioner, came variously armed and they started abusing. It is
alleged that co-accused Rabindra Yadav and Ramashish Yadav



fired from their rifles at the son of the informant Upendra Yadav, as a result, he fell down after receiving injuries. It is alleged that the co-accused Dharmendra Yadav and son-in-law of late Chando Yadav fired from rifle at the cousin brother of the informant Dalpati Yadav, causing bleeding injury. It is further alleged that co-accused Umesh Yadav (petitioner), Shaukhi Yadav, Kamlesh Yadav and Rabindra Yadav resorted to indiscriminate firing in the air. On hearing the sound of firing, the villagers assembled there and then the accused persons fled away from the place of occurrence.

Learned counsel for the petitioner submits that petitioner is innocent and has falsely been implicated in this case. The petitioner is languishing in custody since 22.04.2022 and bears criminal antecedent of one case in which he has been acquitted. He further submits that there is no specific allegation of firing rather there is only general allegation of firing against petitioner and others and no one sustained injury. Hence, no offence under Section 307 I.P.C. is made out against the petitioner. From perusal of the FIR, it appears that the informant and his cousin Dalpati Yadav sustained injury by specific firing made by co-accused Ravindra Yadav and Ramashish Yadav. Charge sheet has been submitted in this case and there is no



likelihood of tampering with the prosecution evidence. On similar allegation co-accused, Saukhi Yadav, Ravindra Yadav son of Bhuneshwar Yadav and Dharmendra Yadav have already been granted bail by different co-ordinate Bench of this Court vide Cr. Misc. No.80466/2019 and Cr. Misc. No.9331/2020 and the case of present petitioner stands on similar footing. On principle of parity the petitioner deserves same treatment.

The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner.

Considering the facts and circumstances of the case, period of custody, co-accused have already been granted bail, charge sheet has already been submitted in this 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 on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-1st, Nawada in connection with Kawakol P.S. Case No. 232/2018, 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 all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned 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)

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