

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36439 of 2023

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

RAJESH MAHTO @ RAJESH KUMAR Son of Shri Vishnu Shankar Mahto
Resident of village - Jamira, P.S.- Ara Mufassil, Distt.- Bhojpur, Pin 802161

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Suresh Pd Singh No.1,.Advocate

For the Opposite Party/s : Mr.Ram Naresh Ray,APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 02-08-2023 Heard learned counsel for the petitioner, learned
counsel for the informant and the learned A.P.P. for the State.

2. The petitioner seeks bail, who is in custody since
03.01.2023 in connection with Ara Nawada P.S. Case No.
459 of 2021, F.I.R. dated 03.05.2021 registered for the
offence punishable under Sections 302, 307 and 34 of the
Indian Penal Code and Section 27 of the Arms Act.

3. The brother of the informant is said to have been
inflicted gun shot injury by the petitioner and others as a
result of which he died during course of treatment.

4. Learned counsel appearing for the petitioner
submits that the petitioner has clean antecedent and he has
falsely been implicated in the present case. Further submits



that from bare perusal of the FIR it appears that there is allegation of firing upon the brother of the informant is attributed to the petitioner and co-accused, namely, Jitendra Mahto, who alleged to have fired upon the victim but the postmortem report reveals that only one injury was found on the person of the deceased. Further submits that it appears from the postmortem report that it is not clear that who fired which hit the body of the deceased. Learned counsel for the petitioner submits that other co-accused persons, namely, Bhim Mahto, Sudhir Mahto @ Sudhir Kumar and Nakul Kumar have been granted bail by a Coordinate Bench of this Hon'ble Court vide order dated 04.04.2022 passed in Cr. Misc. Nos. 53016 of 2021, 53544 of 2021 and 54045 of 2021 respectively but fairly submits that there is no allegation of any assault or firing attributed against these co-accused persons and the police, after investigation, submitted the chargesheet against the petitioner and the petitioner is in custody since 03.01.2023.

5. Learned counsel for the informant and learned A.P.P. for the State, on the other hand, have vehemently opposed the prayer for bail of the petitioner and submits that the bail petition of co-accused, namely, Jitendra Mahto @



Jitendra Mahato @ Munda against whom the similar allegation that the petitioner alongwith co-accused, namely, Jitendra Mahto @ Jitendra Mahato @ Munda have fired upon the victim, his bail petition has been rejected by a Coordinate Bench of this Hon'ble Court vide order dated 17.07.2023 passed in Cr. Misc. No.34386 of 2023 and he drew the attention of this Court towards the inquest report which suggests that two injuries were found on the person of the deceased but fairly submits that the postmortem report reveals that only one injury was found on the person of the deceased.

6. Considering the aforesaid facts, let the petitioner, above named, be released on bail on furnishing bail bond of Rs.10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Trial Court in connection with Ara Nawada P.S. Case No. 459 of 2021, with the following conditions:-

(I) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on his/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be cancelled by the Court below.



(II) 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.

(III) And, further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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