

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.46569 of 2023**

Arising Out of PS. Case No.-331 Year-2022 Thana- DIDARGANJ District- Patna

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Gajendra Kumar @ Gajendra Singh Son Of Raj Ballabh Yadav Resident Of  
Village- Hiranandpur, Ps- Didarganj, Distt- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Bhola Kumar, Advocate

For the Opposite Party/s : Mr. Tarun Prasad Mandal, APP

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**CORAM: HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI**  
**ORAL ORDER**

2      16-08-2023                      1. This application is filed under Section 438 of Code of Criminal Procedure, 1973, wherein, the applicant has prayed that he may be enlarged on bail in the event of his arrest in connection with Didarganj P.S. Case No. 331 of 2022 dated 25.11.2022 for the alleged offences punishable under Sections 147, 148, 149, 341, 323, 307 and 504 of the Indian Penal Code and Section 27 of the Arms Act.

2. Heard Mr. Bhola Kumar, learned advocate for the applicant and Mr. Tarun Prasad Mandal, learned APP for respondent-State.

3. Learned advocate for the applicant has mainly submitted, after referring to the allegations levelled against all the accused persons in the F.I.R., that the applicant used firearm



from which the injured sustained injuries. However, learned Advocate at this stage has referred the injury certificate of the injured, a copy of which is placed on record at page-15 of the compilation. It is submitted that the nature of injury is simple and, therefore, it is *prima facie* clear that the applicant has been falsely in the alleged incident.

4. Learned counsel further submits that the present is a case of counter F.I.R. and the F.I.R. is registered against the first informant of the present case and another. Learned counsel therefore urged that the applicant be enlarged on anticipatory bail.

5. On the other hand, learned APP has opposed this application and referred the allegations levelled against the applicant in the F.I.R. It is also submitted that the injured Vishwanath Singh sustained firearm injury which is reflected from the certificate issued by the concerned Doctor.

6. Learned counsel therefore submitted that once there are specific allegations levelled against the applicant in the F.I.R. in question, where the applicant has used firearm from which the injured has sustained injury, this Court may not exercise discretion in favour of the applicant. He, therefore, urged that this application be dismissed.



7. Having heard the learned advocates appearing for the parties and having gone through the material placed on record including the order passed by the Sessions Court and the injury certificate produced by the applicant, it is revealed that specific allegations are levelled against the applicant that he used the firearm from which the injured Vishwanath Singh sustained injury. There are eye witness to the incident in question who have specifically alleged against the present applicant. The concerned Sessions Court has perused the case diary and thereafter made observation against the present applicant. I am of the view that the prosecution has made out a *prima facie* case against the present applicant for commission of the alleged offence punishable under Sections 307, 341, 323, 147, 148 and 149 of the I.P.C.

8. The custodial interrogation of the applicant is required in the facts of the present case and, therefore, I am not inclined to entertain the present application.

9. This application is, therefore, dismissed.

**(Vipul M. Pancholi, J)**

Sachin/-

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