

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.50896 of 2022**

Arising Out of PS. Case No.-72 Year-2020 Thana- BARAUNI RAIL P.S. District- Begusarai

UTTAM MALAKAR, Son of Ashok Malakar R/V- Imam Nagar, Shiv  
Mandir Tola, P.S- Azam Nagar, Dist- Katihar ... .. Petitioner/s  
Versus

The State of Bihar ... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Ramakant Sharma, Sr. Advocate  
Mr. Shivendra Prasad, Advocate  
For the Opposite Party/s : Mr. Binod Kumar No.3, App

**CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH**  
**ORAL ORDER**

5      15-03-2023                      Heard learned Sr. counsel for the petitioner and the  
learned APP for the State.

Petitioner seeks regular bail in connection with  
Barauni Rail P.S. Case No. 72 of 2020 registered for the  
offence(s) punishable under Section(s) 302 and 307 of the  
Indian Penal Code and Section 27 of the Arms Act.

As per the prosecution, the officer-in-charge of  
Barauni Rail police station in his statement alleged that in  
Patliputra Rail P.S. case No.19 of 2019, this petitioner is  
alleged to have murdered his wife Kanchan Devi and he has  
also sustained firearm injury.

The main submissions advanced by the learned Sr.  
counsel for the petitioner are that the petitioner has been  
languishing in jail since 25.03.2022, admittedly he himself  
sustained firearm injuries at the same time when the alleged



occurrence took place when he was travelling along with his wife and as per the prosecution, the petitioner and his wife sustained firearm injuries when they were travelling and during the investigation the petitioner was not made accused on the basis of initial investigation conducted in connection with Patliputra Rail P.S. Case No.19 of 2019 wherein some passengers including the rail employees who were deputed in the said train were examined but none of them claimed to have seen the petitioner causing firearm injuries to his own wife and there is merely a suspicion against the petitioner and while investigating the present matter, the police did not record the statement of this petitioner to get the exact details of the commission of the alleged occurrence and the prosecution's case is merely based on presumption and petitioner was treated at PMCH and his medical report showing firearm injury on his body has been filed by way of supplementary affidavit which also confirms the incident of causing firearm injury to the petitioner himself.

Learned APP appearing for the State has opposed the bail prayer but fairly accepted that during investigation, any of the witnesses who were examined did not claim to have seen the petitioner causing firearm injury to his own wife and even none



of them claimed to have heard the sound of firing.

In view of the facts, as stated above, and mainly considering the facts that admittedly the petitioner himself sustained firearm injuries at the relevant time of commission of alleged occurrence of murder of his own wife and in this regard, petitioner has filed his medical prescription of his treatment issued by the P.M.C.H. by way of supplementary affidavit and during investigation, none of the witnesses who were examined claimed to have seen the petitioner causing firearm injury to his own wife and they simply raised suspicion against the petitioner and also taking into account the petitioner's custody period, in the opinion of this Court a lenient approach can be taken in respect of the petitioner's prayer, let the petitioner 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 the concerned Court in connection with Barauni Rail P.S. Case No. 72 of 2020.

**(Shailendra Singh, J)**

Sanjay/-

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