

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58883 of 2022

Arising Out of PS. Case No.-58 Year-2022 Thana- DHURAIYA District- Banka

Chhote Lal Yadav @ Chotelal Yadav @ Chattu Yadav S/o- Anandi Yadav R/o
Village- Hasanpur, P.S.- Dhuraiya, District- Banka

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ranjan Kumar Jha, Advocate Mr. Subhash Kumar Jha, Advocate
For the Opposite Party/s	:	Mr. Md. Aslam Ansari, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

7 10-07-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

Learned counsel for the petitioner is permitted to
remove the defect(s), as pointed out by the office, if any, within
a period of four weeks from today.

Petitioner seeks bail who is in custody since
30.03.2022 in connection with Dhuraiya P.S. Case No. 58 of
2022, F.I.R. dated 10.02.2022 for the offences punishable under
Sections 302/34 of the Indian Penal Code and Section 29 of the
Arms Act.

According to prosecution case, on the order of the co-
accused, this petitioner fired two gun-shots upon the son of the
informant, who died during the course of treatment.



Learned counsel for the petitioner submits that petitioner is innocent and he has falsely been implicated in the present case due to admitted land dispute. He further submits that from perusal of the F.I.R. it transpire that on order of the co-accused, namely, Anandi Yadav, the petitioner has fired upon the deceased from his licensee gun. He further submits that the allegation as alleged in the F.I.R. is false and fabricated and the petitioner has not committed any offences as alleged in the F.I.R. in fact, the gun in question (licensee gun of the petitioner) was in the Gun House since before the alleged date of occurrence. He further submits that it is evident from Annexure 2 that the gun was deposited in the Gun House on 09.02.2022 and the present occurrence took place on 10.02.2022. He further submits that the police after investigation submitted the charge sheet against the petitioner. The petitioner is in custody since 30.03.2022.

Vide order dated 29.04.2023 a report was called with regard to the present stage of trial. Report of the learned Trial Court dated 11.05.2023 reveals that no witnesses have been produced by the prosecution in this case.

Learned counsel for the petitioner submits that in view of the report of the learned Trial Court, the trial is not likely to



be concluded in the near future.

The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioner on the ground that petitioner carries one criminal antecedent other than the present one.

Considering the report of the learned Trial Court and the period of custody which is more than one year, 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 the learned Chief Judicial Magistrate, Banka in connection with Dhoraiya P.S. Case No. 58 of 2022, subject to the following conditions:-

1. 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 absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

2. 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.



3. 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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