

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL MISCELLANEOUS No.61400 of 2023**

Arising Out of PS. Case No.-75 Year-2023 Thana- GAUTAMBUDHNAGAR District- Siwan

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ASHOK YADAV SON OF SHIVNATH YADAV RESIDE OF VILLAGE -  
BANJARIYA, P.S. - SIWAN MUFFASIL, DISTRICT - SIWAN

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

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**Appearance :**

|                          |   |                                                                                      |
|--------------------------|---|--------------------------------------------------------------------------------------|
| For the Petitioner/s     | : | Mr. Ajay Kumar Thakur, Adv.<br>Mrs. Vaishnavi Singh, Adv.<br>Mr. Ritwik Thakur, Adv. |
| For the Opposite Parties | : | Mr. Md. Nazir Ansari, APP<br>Mr. Raghav Prasad, Adv.<br>Mr. Chandra Shekhar, Adv.    |

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**CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY  
ORAL ORDER**

3      21-12-2023                      Heard learned counsel for the petitioner, learned A.P.P.  
for the State as well as learned counsel for the informant.

2. The petitioner seeks bail in connection with G.B. Nagar P.S. Case No. 75 of 2023 registered for the offences punishable under Sections 302/34 of the Indian Penal Code and Section 27 of the Arms Act.

3. As per prosecution case, on 07.03.2023 at 04:45 AM the informant was sitting alongwith his son. In the meantime, petitioner and other came to the door of informant and proceeded towards Siswan Korar along with informant's son and after some time i.e. at 05:15 AM villagers informed that informant's son was shot dead by the petitioner and others. It is further alleged that informant along with his family member reached at the spot and



saw that his son was lying on the earth and blood was oozing out from his head. The informant and his family member saw that petitioner and others were fleeing away from the place of occurrence. On the information, police came and took the dead body of informant's son for postmortem. Reason behind the occurrence is dispute between informant and petitioner alongwith others over fishing.

4. Learned counsel for the petitioner submits that petitioner is quite innocent and has not committed any offence as alleged in the FIR and he has falsely been implicated in this case. He further submits that there is no eye witness to the actual occurrence. The inquest report is made earlier than the lodging of the FIR which makes the prosecution story doubtful. Petitioner is in custody since 16.05.2023 and bears criminal antecedent of one case in which he is on bail.

5. Learned counsel for the informant and learned A.P.P. for the State vehemently opposed the prayer for bail of the petitioner by submitting that victim was taken away by the petitioner and others on 07.03.2023 at 04:45 AM and the actual occurrence took place within half an hour of taking away the victim which denotes that occurrence has been committed by the petitioner and others. There is proximity of time between taking away the victim and the actual occurrence of firing which hit the



informant's son. The postmortem report also supported the story of prosecution. They further submitted that Santosh Yadav had also seen the informant's son in the company of petitioner and others. Hence, petitioner does not deserve bail.

6. Considering the facts and circumstances of the case, nature of allegation levelled against the petitioner coupled with postmortem report as well as material available on record, I am not inclined to grant bail to the petitioner. Accordingly, the prayer for bail of the petitioner is hereby rejected.

7. However, the learned trial court is directed to conclude the trial as early as possible, preferably within one year, by putting the trial on day to day basis.

**(Alok Kumar Pandey, J)**

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