

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13799 of 2024

Arising Out of PS. Case No.-364 Year-2023 Thana- GOGRI District- Khagaria

Bhupendra Yadav Son of Late Tej Narayan Yadav Resident of village usri,
P.S.-Gogari, District- Khagaria (Bihar)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mrs. Nivedita Nirvikar, Sr. Adv. Mr. Arya Achint, Adv.
For the Opposite Party/s	:	Mr.Nand Kumar, APP
For the Informant	:	Mr. Mritunjay Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA
ORAL ORDER

4 24-06-2024 Heard learned counsel for the petitioner and learned

APP for the State as also learned counsel for the Informant.

Perused the case diary.

2. The petitioner seeks bail in connection with Gogri
P.S. Case No. 364 of 2023 instituted for the offences under
Sections 302, 120(B) of the Indian Penal Code and Section
25(1-B)a/26(1)/35/27(1) of the Indian Arms Act.

3. As per prosecution case, the allegation against the
accused persons including the petitioner is of firing upon the
elder son of the Informant due to which the deceased sustained
gunshot injury on his left chest and he died at the spot. It is
alleged after firing, two of the accused persons managed to flee
away from the place of occurrence but, one of them namely,
Santosh Yadav was apprehended and assaulted by the mob and



was handed over to the police. The co-accused Santosh Yadav disclosed that Bhupendra Yadav and Ram Vilash Yadav were his *Samdhi*.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence as alleged against him and has falsely been implicated in the present case due to ulterior motives. There is an admitted land dispute between the parties. Learned counsel for the petitioner further submits that nothing incriminating has been recovered from the conscious possession of the petitioner. There is no direct or specific allegation of any overt act against the petitioner rather the same is general and omnibus in nature. The petitioner has no concern with the alleged occurrence. There is absolutely no independent witness and there is also no evidence in the entire record to prove that the petitioner was related with the alleged occurrence or has any role in the entire incident. Even the Informant has not said that the petitioner is the assailant. It is further stated that the deceased Veer Prakash Yadav was a veteran criminal which also proves the false implication of the petitioner in the present case. It is also stated that earlier the Informant's husband had lodged a case vide Complaint Case No. 327(c) of 2016 in which the petitioner was acquitted and,



just to implicate the petitioner in false case, the present case has been instituted just to grab the land of the petitioner. The petitioner has three criminal antecedents and, in one of them, he has been acquitted as has been stated in Para-3 of the present bail application. The petitioner has been remanded in the present case on 03.11.2023. It is further stated that except confessional statement of the deceased (Santosh Yadav), there is nothing on record to show the involvement of the petitioner in the present occurrence.

5. On the other hand, learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner, stating that the allegation alleged against the petitioner is serious in nature. He further submits that one of the accused persons namely Santosh Yadav was apprehended by the mob who was handed over to the police along with eight live bullets and one empty shell casing and a black Pulsar motorcycle and pistol. The deceased Santosh Yadav has disclosed that the petitioner Bhupendra Yadav and Ramvilas Yadav are his relatives. The postmortem report also supports the prosecution case. The witnesses in Para 7 & 8 of the case diary have also fully supported the prosecution case. He also submits that the witness Kamakhya Yadav has also stated that the conspirators of the



alleged occurrence are Ramvilas Yadav and Bhupendra Yadav (the petitioner).

6. Having heard rival contention of both the parties and considering the entire facts and circumstances of the case as also taking into account the nature of allegation made against the petitioner, this Court is not inclined to grant bail to the petitioner.

7. Accordingly, the prayer for bail of the petitioner, above named, is rejected with a direction to the court below to expedite the trial and conclude the same expeditiously preferably within a period of nine months from today.

8. If the trial is not concluded within the aforesaid period of nine months, the petitioner will be at liberty to renew his prayer for bail before the court below which will be disposed of on its merit without being prejudiced by this order.

(Rudra Prakash Mishra, J)

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