

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32088 of 2024

Arising Out of PS. Case No.-154 Year-2023 Thana- BRAHMPUR District- Buxar

Tarkeshwar Pandey @ Tadak Pandey Son Of Late Jagdish Pandey R/O - Vill-
Jaipur, P.S- Barahampur, Dist - Buxar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Ajay Kumar Thakur with Ms. Vaishnavi Singh, Advocates
For the Opposite Party/s :	Mr. Shyameshwar Dayal, APP
For the informant	Mr. Chandra Mohan Singh with Mr. Ataul Haque, Advocates

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

3 05-07-2024 Heard learned counsel for the petitioner, learned
Additional Public Prosecutor for the State as well as learned
counsel for the informant, who has appeared *suo motu*.

2. The petitioner seeks bail in connection with
Brahampur PS Case No.154 of 2023 dated 19.03.2023, instituted
for the offence punishable under Sections 302, 120-B/34 of the
Indian Penal Code and Section 27 of the Arms Act.

3. The prosecution story, in short, is that son of the
informant has been murdered by gun shot injury in broad day
light on 19.03.2023 at the morning hours in front of his house on
account of land dispute. Specific allegation of firing is against
Tarkeshwar Pandey (petitioner). It is further alleged that prior



to the occurrence a meeting was held in which the petitioner was also present along with other co-accused. Thereafter, threatening was given by brandishing firearms.

4. Learned counsel for the petitioner submits that the petitioner is innocent and he has been falsely implicated in this case. It is submitted that the dispute between the parties is predominantly civil in nature. Both the parties are agnates. It is further submitted that as per First Information report (for brevity 'FIR') the alleged occurrence took place on 19-03-2023 at about 7.00AM whereas, inquest report was prepared on 19-03-2023 at 11.30 AM at Sadar Hospital Ara in emergency ward and postmortem was done at 1.00PM on 19-03-2023. It is also submitted that F.I.R. was registered on 19-03-2023 at 6.15 PM. It is further submitted that the seizure list was prepared on 21-03-2023 at 10.30 AM and the place from where the articles were seized is mentioned as P.M.C.H. T.O.P. (Patna). It is further submitted that the said pistol which was alleged to be used in the alleged occurrence has not been sent for FSL for its chemical analysis. Learned counsel for the petitioner further submits that from bare perusal of the postmortem report, it would appear that two injuries are mentioned as entry of wound and one corresponding exit wound on around the abdomen. The injury



sustained by the deceased is as follows:-

(i) Wound entry- A circular and oval shape inverted margin with charring on below right side chest region size- 1/2"x 1/2"

(ii) Wound exit- A lacerated wound with elevated margin on around abdomen size 1"x 1"

(iii) Wound entry- Entry circular and oval size with inverted margin with charring on right side shoulder size 1/2" x 1/2".

A bullet is recovered from lungs, the bullet is handed over to the police.

5. Learned counsel for the petitioner further submitted that the postmortem report falsifies the case of the prosecution. It is specific allegation that the petitioner fired from his pistol from the back side of the deceased. It is further highlighted that petitioner also lodged Brahampur PS Case No. 161 of 2023 dated 21-03-2023, under Sections 307, 504 and 506/34 of the IPC and Section 27 of the Arms Act against the informant and others for the same occurrence stating that while he was cleaning his door, in the mean time, his nephew Pappu Pandey (deceased) started abusing him. The petitioner protested the same and thereafter said Pappu Pandey along with his other family



members came to the house of the petitioner and started firing, as a result of which, petitioner received firearm injury. It is submitted that although the injury is simple in nature, but caused by firearm weapon. The following injury was received by injured Tarkeshwar Pandey (petitioner):-

(i) One puncture wound 1 cm x 1.5 cm anterolateral aspect of right arm with blackening and freezing of margin.

(ii) Another puncture wound of 1cm x 0.5 cm posterolateral aspect of right arm.

6. Learned counsel next submits that petitioner was taken to hospital in injured condition where the '*fardbeyan*' was recorded on the basis of which, Brahampur PS Case No. 161 of 2023 dated 21-03-2023 under Sections 307, 504 and 506/34 of the IPC and Section 27 of the Arms Act was instituted against the informant and others. It is submitted that petitioner got treatment of his gun shot injury at PMCH. It is also submitted that the police has received information about the occurrence at 7.30 AM and inquest report was prepared at the hospital at 11.30 AM. It is submitted that the above facts and circumstances, cast a grave shadow of doubt on the entire prosecution case. It is submitted that petitioner is an Ex-service Men working in Indian Army and he had worked for about 26 years and while he was



serving in the Army his property was being looked into by the joint family, including by the husband of the present informant and his father and others. After his retirement, when the petitioner settled in the village, he started demanding his share in the joint family property which caused annoyance to the present prosecution party and for the said reason they were threatening to kill the petitioner and has resorted to firing for which an information was given to the police, but police has not taken any action and thereafter the petitioner filed informatory petition in the Court of CJM, Buxar bearing informatory petition No. 2554 of 2021 dated 28-10-2021. Lastly, it has been submitted that the petitioner is in custody since 22-03-2023, having no criminal antecedents and charge-sheet has been submitted in the case.

7. Learned counsel for the informant as well learned counsel for the State have vehemently opposed the prayer for bail. Learned counsel for the informant submitted that there is specific allegation against the petitioner of making firing from his pistol on the son of the informant, who received the gun shot injury, which was corroborated by the postmortem report. It is further submitted that injured succumbed to the injuries during the course of treatment on the same day.

8. Since there is specific allegation against the



petitioner of firing from his pistol on the son of the informant which caused his death, I am not inclined to grant bail to the petitioner at this stage. All the disputed facts has to be looked into during the trial

9. The learned Trial Court is directed to take all endeavour to conclude the trial within one year from the date of receipt/production of a copy of this order without granting any unnecessary adjournment.

10. This application stands dismissed.

(Khatim Reza, J)

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