

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45680 of 2024

Arising Out of PS. Case No.-347 Year-2022 Thana- CHANDAUTI District- Gaya

Binod Kumar @ Binod Paswan Son of Bindeshwar Paswan R/O Vill.- Baljori
Bigha, P.S.- Chandauti, Dist.- Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr.Priya Ranjan, Adv.
For the Opposite Party/s :	Mr.Murli Dhar, APP
For the Informant :	Mr.Manish Kumar No.2, Adv.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

4 20-09-2024 Heard learned counsel for the petitioner, learned counsel

for the informant and learned APP for the State.

2. The petitioner seeks bail in a case registered for the offence punishable u/s 342, 326, 307, 120(B)/34 of the IPC and section 27 of the Arms Act.

3. Prosecution case, in brief, is that the informant Bhola Yadav alleged that, while he along with his family members was at his home, the accused persons including the petitioner came there and took Rampravesh Yadav and Sachin Kumar along with them, on the pretext of settling their previous dispute through compromise. It is alleged that the informant also followed them and saw that in front of the house of Mithlesh Kumar, on road, Shrawan Yadav and Ravindra Yadav were holding Rampravesh



Yadav, and Arjun Yadav and Chhotu Yadav were holding Sachin Kumar. It is further alleged that Sonu Kumar ordered Vinod Paswan to fire on Rampravesh Yadav, accordingly, he fired in the mouth of Rampravesh Yadav. Subsequently, Yogendra @ Yogi ordered Navin Kumar to fire on Sachin Kumar, accordingly, Navin Kumar fired on him, on which, both of them raised alarm, consequently, when people started gathering, they fled away. In the meantime police patrolling party picked them up and took them to Magadh Medical for treatment.

4. It is submitted by learned counsel for the petitioner that petitioner is quite innocent and has committed no offence. He has been falsely implicated in this case due to ulterior motive. No such occurrence, in the manner as alleged, has ever taken place. It is submitted that as per the allegation made in the F.I.R., petitioner has fired upon the mouth of one Rampravesh Yadav and except this, there is no allegation against the petitioner and the allegation of firing upon one Sachin Kumar is against the co-accused Navin Kumar. It is further submitted that police after investigation filed final form against the co-accused, this shows that the occurrence is concocted and false.

5. Learned counsel for the petitioner further submits that the informant Bhola Yadav is the own paternal uncle of Yogendra @



Yogi and Ravindra Yadav and there is on-going dispute between the parties, pertaining to partition of family property and other landed properties. It is submitted that there was previous enmity between the parties and they were at loggerheads. Petitioner has been made accused in this case only because he is a friend of Yogendra @ Yogi and Ravindra Yadav.

6. It is next submitted that so far as the present incident is concerned, it is stated that contrary to the allegation, it was the informant's side which was the aggressor. Rampravesh Yadav, Ranjay Kumar @ Pappu, Munna Kumar and Rahul Kumar had come to the house of Yogendra @ Yogi and Ravindra Yadav and assaulted them, for which, their mother, namely Sheela Devi had lodged Chandauti P.S. Case No.348 of 2022 on 22.08.2022 (Annexure-4 to the bail petition) against Rampravesh Yadav, Ranjay Kumar @ Pappu, Munna Kumar and Rahul Kumar.

7. The injury report in the present case has initially been issued by the A.N.M.M.C.H., Gaya on 21.08.2022, wherein, the Doctor has not stated that there was any exit and entry wound, when the patient was first admitted and thoroughly examined and provided treatment for one day. Further, the doctor has not found the injuries to be caused by fire arm. This opinion was given despite the assertion of the injured that he has received a



fire arm injury, which fact has been reproduced by the Doctor at the top of the injury report of patient and has been disclosed to be an alleged case of fire arm injury. Thus, the injury report neither mentions the wound to be caused by fire arm injury nor does it support the version of prosecution that the wound entered through the right face and exited from the left mandible. There is no mentioned of entry wound or exit wound in the injury report except for a single injury on face, injury report is enclosed at Annexure-P/6 to the supplementary affidavit.

8. It is submitted that the injury report prepared and signed on 14.10.2022 by the doctor at Patna Central Hospital appears to be forged and fabricated, as the Doctor has noted that there was entry wound on right face and exit wound laterally on the face left side which does not correspond with the injury report prepared by doctor who first treated Rampravesh Yadav at A.N.M.M.C.H., Gaya, as there is no mention of exit wound on the date of alleged incident. The injured Rampravesh Yadav was examined on 02.10.2022 and he in his statement has never stated that the fire arm injury pierced his face and bullet entered the right face and exited from the left, which is another fact, which creates a doubt that the injury report is suspicious (a copy of the injury report dated 14.10.2022 is enclosed at Annexure-



P/7 to the supplementary affidavit).

9. Learned counsel for the petitioner further submits that the prescriptions which have been brought by the informant suggests that the patient Rampravesh Kumar Yadav was operated for bilateral mandibular fractures at MAX Health Care as per prescription dated 07.09.2022 and second prescription dated 09.09.2022 suggests that the patient was operated on 22.08.2022 for the same elsewhere, which two prescriptions, creates suspicion regarding the veracity and correctness of the injury report. Petitioner has no criminal antecedent and he is in custody since 19.02.2024.

10. Learned APP for the State as well as learned counsel for the informant opposed the prayer for bail by submitting that on bare perusal of the First Information Report, it is clear, that there is specific allegation against the petitioner that he fired upon the informant's mouth and therefore, he got badly injured. His condition was very serious and anyhow after long treatment, he is survived. Learned counsel for the informant submits that after receiving injury, the injured was firstly admitted at Patna Central Hospital. On perusal of the discharge summary issued by the Patna Central Hospital, it transpired that there is entry wound on right face and exit wound on the left face has also



been found. Initially the injured was admitted at A.N.M.M.C.H., Gaya, from where he was referred to Patna but looking at his serious condition, his attendant has admitted him at Patna Central Hospital (Annexure-R/1 series to the counter-affidavit).

11. It is stated in the counter-affidavit that even after discharge from Patna Central Hospital, since his condition was not good, therefore, he went to MAX Hospital, where, he was treated but the injury affected his eyes, therefore, he went to Appollo Hospital, Chennai for treatment of his eyes and teeth, where he was treated and still some treatment is going on. It is lastly submitted that after investigation, police has submitted charge sheet against the petitioner. The learned Magistrate after taking cognizance, the case has been committed to the court of Sessions on 14.08.2024. The other co-accused filed a discharge petition in the present case, which is still pending for consideration. In fact, the other co-accused, released on bail, are trying to delay the trial by filing the discharge application. The deponent is ready to produce all the witnesses within a small period, if the petitioner is ready to cooperate in the trial.

12. Considering the facts and circumstances of this case and the argument of the parties, it is admitted fact that there is a case and counter-case between the parties and some of the co-



accused have been granted regular bail by the co-ordinate Benches of this Court and the investigation of this case has been completed, for which, charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

13. Accordingly, the above named petitioner is directed to be enlarged on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/the Successor Court, in connection with Chandauti P.S. Case No.347 of 2022, subject to the following condition(s):-

(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 bonds shall be cancelled by the Court below.

(2) If the petitioner tampers with the evidence or the witness, in that case, the prosecution will be at liberty to move for cancellation of bail.

(3) And, further, 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 the purpose of or in the name of verification.

(Anjani Kumar Sharan, J)

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