

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46653 of 2024

Arising Out of PS. Case No.-67 Year-2024 Thana- BIDUPUR District- Vaishali

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Avinav Kumar @ Avinav @ Abhinav Kumar Son of Lal Bahadur Ray
Village- Bagh Tola Chechar, P.S.- Bidupur, Distt.- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shivjee Singh, Advocate

For the Opposite Party/s : Mr. Amitesh Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 10-07-2024 Heard the learned Advocate for the petitioner and the

learned APP for the State.

2. The petitioner seeks regular bail, who is in custody
in connection with Bidupur P.S. Case No. 67 of 2024, registered
for the offence punishable under Sections 341, 323, 307 and
414/34 of the Indian Penal Code and Sections 25(1-b)a, 26 and
35 of the Arms Act.

3. Allegedly, while the informant was sitting at a
temple, in the meantime, the petitioner came there and asked
him to come behind the house. When the informant reached
there, the petitioner along with other co-accused persons caught
him and the petitioner fired upon the informant due to which he
sustained firearm injury in his palm. It is also alleged that, in the
meantime, when co-accused Ramesh Kumar tried to kill the



informant, his bullet hit in the abdomen of the petitioner, due to which he sustained grievous injury.

4. Learned Advocate for the petitioner contended that though the allegation of firing has been levelled against the petitioner, however, the truth is otherwise, as would be evident from the FIR instituted by the police Annexure-P2 ,wherein it is alleged that on account of firing between the persons of two rival group, this petitioner has sustained injury. It is also contended that having received the bullet injury, the petitioner was taken to PMCH where his *fardbeyan* was recorded and he categorically stated that it is the informant, who has caused firing due to which he sustained injury. Though the *fardbeyan* recorded in PMCH has not been converted in the FIR, till date. It is also the contention of the petitioner that the injury sustained to Amit Kumar @ Tufani is received on his palm and, as such, there was no intention attributing on the part of the petitioner constituting an offence under Section 307 of the Indian Penal Code. Be that as it may, the petitioner has himself sustained a bullet injury and he has been incarcerated since 22.02.2024. That apart, the investigation of the crime is already complete and the charge-sheet has been submitted.

5. On the other hand, learned APP for the State



vehemently opposes the bail application and referring to paragraph no. 3 of the bail application submits that the petitioner appears to be a habitual offender, indulge in three serious offence.

6. Regard being had to the submissions made on behalf of the parties and considering the three different versions of the prosecution, coupled with the period of custody and the fact that after completion of the investigation charge-sheet has been submitted, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate 1st Class, Vaishali at Hajipur in connection with Bidupur P.S. Case No. 67 of 2024, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.



(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) 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 immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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