

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53643 of 2024

Arising Out of PS. Case No.-49 Year-2024 Thana- PHULPARAS District- Madhubani

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Bhavana Kumari @ Bhavna Jha Daughter of Sanjay Jha R/o Village - Sudai,
P.O.- Sudai Ratauli, P.S.- Phulparas, District - Madhubani (Bihar), Pin -
847402

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Nitesh Kumar

For the Opposite Party/s : Mr.Akbar Ali

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

2 07-08-2024 Heard Mr. Nitesh Kumar, learned Advocate for the

petitioner and learned Additional Public Prosecutor for the

State.

2. The petitioner seeks grant of bail in connection
with Phulparas P.S. Case No. 49 of 2024, registered for the
offences punishable under Sections 302, 307, 506, 120B/34 of
the Indian Penal Code and 27 of the Arms Act.

3. Based upon the written report, the prosecution
alleges that while in course of construction of house, co-accused
Sanjay Kumar Jha came in the possession of the informant and
when the same was resisted, all the co-accused persons started
abusing. In the meantime, this petitioner brought pistol and
handed over to co-accused Sanjay Kumar Jha and asked him to
kill the enemies. On the exhortation made by the petitioner co-
accused Sanjay Kumar Jha made indiscriminate firing due to



which two of the persons named in the FIR died at the spot whereas two person have also sustained injuries on account of firing.

4. Learned Advocate for the petitioner contended that the narrative made in the year FIR clearly suggests that the occurrence took place on 06.02.2024 at about 9:45 in the morning, the FIR has been instituted on 07.02.2024 at 22:45 pm. Just after the incidence, the police came and the inquest report was prepared; the *post mortem* has also been done, but at no point of time *fardbeyan* of the informant has been recorded or any complaint has been made. The delay in lodging of the FIR clearly suggests the deliberation on the part of the informant and her family members, implicating the name of all the family members of the petitioner. Even if the allegation is taken to be true, it is only alleged that the petitioner has brought a pistol and handed over to co-accused Sanjay Kumar Jha, who has made indiscriminate firing, resulting into death of two persons. The petitioner is a female student, aged about 22 years, has been in custody since 09.02.2024. The long standing land dispute between the family of the petitioner and the informant cannot be ruled out as the same is evident from the narrations made in the FIR. Now the investigation of the crime is complete and the



charge sheet has been submitted though the petitioner has been incarcerated for over a period of six months.

5. On the other hand, learned APP for the State vehemently opposes the bail application and submits that it is the petitioner, who not only brought the pistol and given it to the co-accused but also made exhortation and persuaded her father to kill the enemies, whereupon co-accused made indiscriminate firing resulting into death of two persons and injury to two others.

6. Regard being had to the submissions made on behalf of the parties and considering the delay in lodging of the FIR and the fact that neither any *fardbeyan* has been recorded nor any complaint has been made at the time when inquest report was prepared and *post mortem* had been done and for the first time the FIR has been instituted after a delay of 36 hours, coupled with the fact that the petitioner is a lady having fair antecedent, let the petitioner, abovenamed, 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 Additional District and Sessions Judge-III, Civil Court, Jhanjharpur, Madhubani in connection with Phulparas P.S. Case No. 49 of 2024, subject to the condition that



one of the bailors shall be the own/close family members of the petitioner with further conditions which are as follows:-

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

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

(iii) She 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, her 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 her 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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