

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48460 of 2023

Arising Out of PS. Case No.-94 Year-2020 Thana- SALAKHUA District- Saharsa

Sharmanand Yadav Son of Late Babaji Yadav Resident Of Village Bhikhari
Ghat, PS- Alouli, Dist- Khagaria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Y.V. Giri, Sr. Adv. Mr. Rajnish Kumar Singh, Adv. Mr. Rashmi Jha
For the Opposite Party/s :		Mr. Ajit Kumar, APP
For the Informant	:	Mr. Shekhar Kumar Singh, Adv. Mr. Amit Kumar Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

9 10-04-2024 Heard Mr. Y.V. Giri, learned senior counsel for the
petitioner; Mr. Ajit Kumar, learned counsel for the State and
learned counsel for the informant.

2. The petitioner seeks regular bail, who is in custody
in connection with Salkhua P.S. Case No. 94 of 2020 registered
for the offences punishable under Sections 302, 504 and 506/34
of the Indian Penal Code and Sections 25(1-b)a, 26, 35 and 27
of the Arms Act.

3. The allegation as has been narrated in the FIR,
depicts that while the informant along with her husband and son
were coming from the field carrying wheat on horse, in the
meantime, 30 to 35 naxalites and criminals encircled them, out



of whom, the informant identified eight persons, including the petitioner. It is specifically alleged that this petitioner fired on the head of the deceased along with others causing his death.

4. The learned senior counsel for the petitioner, submits that from the FIR, it is evident that eight FIR named accused persons along with 30 to 35 accused persons resorted to firing and, in such circumstances, it is highly improbable that the informant could identify as to of whose firing the deceased sustained firearm injury on which part of the body. He further submitted that from the record, it is evident that just after the occurrence on receipt of information, the police reached at the place of occurrence and held camp for the entire night and thereafter in the morning, the inquest report was prepared. Later on, the postmortem was done and the FIR has been instituted at 10:00 PM on 09.04.2020. But, surprisingly, neither any *fardbeyan* of the informant was recorded nor was any written report filed prior to the postmortem report.

5. Learned senior counsel further submitted that had the informant seen the occurrence, there was no reason or occasion to withhold the information for such a pretty long time. Further submission has been made that other co-accused persons having identical allegation of resorting firing leading to bullet



injuries on different parts of the deceased, have been allowed bail by different orders passed by the different Benches, including this Court. The petitioner also seeks parity with the other co-accused persons, who have been allowed bail.

6. On the other hand, learned counsel for the State as well as the learned counsel for the informant, submitted that specific allegation has been levelled against the petitioner of causing fire over the head of the deceased. Besides the aforesaid fact, the petitioner is also carrying nine criminal antecedents as has been mentioned in para-3 of the bail application.

7. At this juncture, learned senior counsel for the petitioner, submits that so far the criminal antecedent of the petitioner is concerned, out of nine cases, the petitioner has been acquitted in five and are on bail in other four cases.

8. Regard being had to the submissions made on behalf of the parties and taking note of the fact that other co-accused persons having identical allegation, have been allowed the privilege of bail and the petitioner is incarcerated in custody since 20.03.2023 and till date charge has not been framed, thus, there is very remote chance of trial being concluded in near future, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Twenty thousand) with



two sureties of the like amount each to the satisfaction of learned A.C.J.M.-I, Saharsa in connection with Salkhua P.S. Case No. 94 of 2020, 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.

(Harish Kumar, J)

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