

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60792 of 2024

Arising Out of PS. Case No.-59 Year-2024 Thana- BASANHI District- Saharsa

Viplav Yadav @ Biplav Yadav, S/o Harimadhav Yadav, R/o Village-
Malaudha, PS- Basnahi, District- Saharsa

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Singh, Advocate
Ms. Bhagyashree Raj, Advocate
For the Opposite Party/s : Ms. Asha Devi, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 26-10-2024 Heard Mr. Rajeev Kumar Singh, learned Advocate
appearing on behalf of the petitioner and the learned Additional
Public Prosecutor for the State.

2. The application for grant of bail to the petitioner
who is in custody in connection with Basnahi P.S. Case No. 59
of 2024 registered for the offence punishable under Sections
341, 323, 307, 447, 504, 34, 120B and later on Section 302 of
the Indian Penal Code was also added and Section 27 of the
Arms Act.

3. Allegedly on account of a dispute which has arisen
in course of purchase of fish from the shop of the informant and
his uncle, the petitioner alongwith other co-accused persons
armed with weapons came there and fired upon the uncle of the



informant, due to which he sustained fire arm injury on his forehead, which proved fatal. It is further alleged that on hearing the gun shot, other people rushed to the place of occurrence and found that the petitioner and other three criminals were fleeing away.

4. Learned Advocate appearing on behalf of the petitioner drawing the attention of this Court to the FIR primarily contended that the narrations made therein *prima facie* appears that there is no specific allegation of causing firing against the petitioner, rather an omnibus allegation has been levelled that the petitioner and co-accused Ashish Yadav have fired upon the deceased. During the course of investigation and specially in supervision note it has come that it is Ashish Yadav, who has caused firing over the head of the deceased. The post-mortem report also corroborate that the deceased has sustained only one bullet injury. Adverting to the aforesaid facts, learned Advocate thus contended that the petitioner is not the person who caused any firing, rather the materials available on the record suggest that it is Ashish Yadav who gave the fatal injury. It is next contended that the petitioner himself surrendered before the learned Court below on 03.04.2024 and since then, he is in custody. Now after the completion of the investigation, charge-sheet has been submitted. Learned Advocate for the



petitioner on the instruction of his client makes a submission that the charges have already been framed.

5. On the other hand, learned Additional Public Prosecutor for the State vehemently opposes the bail application and submits that the petitioner alongwith Ashish Yadav, are said to have fired, due to which the deceased died. The petitioner was also identified through the CCTV footage in course of fleeing and, as such, his complicity in causing the death of the deceased cannot be ruled out, apart from the fact that the petitioner bears three criminal antecedent.

6. At this juncture, learned Advocate for the petitioner submitted that in fact, all the FIR noted in para I, have been instituted against unknown miscreants and later on the name of the petitioner has surfaced on the extra-judicial confession, though he is on bail, in all the cases.

7. Regard being had to the submissions made on behalf of the parties and considering the materials available on record which suggest that the fatal blow has been caused by co-accused Ashish Yadav and now the charges have already been framed, 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, Saharsa in connection



with Basnahi P.S. Case No. 59 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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