

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.56433 of 2024**

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

Manoj Sada, S/O Lalo Sada, R/O Village- Piparpanti, P.S- Morkahi, Distt.-  
Khagaria.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

with

**CRIMINAL MISCELLANEOUS No. 60659 of 2024**

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

Pankaj Yadav, Son of Jugeshwar Yadav @ Jugeshwar Yadav, Village- Sukhansi,  
P.S.- Simri, Bakhtiyarpur, Dist- Saharsa

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

**Appearance :**

(In CRIMINAL MISCELLANEOUS No. 56433 of 2024)

For the Petitioner/s : Mr. Vivekanand Singh, Advocate  
For the Opposite Party/s : Mr. Satyendra Narayan Singh, Advocate  
For the Informant : Mr. Shekhar Kumar Singh, Advocate

(In CRIMINAL MISCELLANEOUS No. 60659 of 2024)

For the Petitioner/s : Mr. Vivekanand Singh  
For the Opposite Party/s : Mr. Satyendra Narayan Singh, Advocate  
For the Informant : Mr. Shekhar Kumar Singh, Advocate

**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR**  
**ORAL ORDER**

3      22-11-2024                      Heard Mr. Vivekanand Singh, learned Advocate for  
  
the petitioner and the leaned Additional Public Prosecutor for  
  
the State. The informant appears through Mr. Shekhar Kumar  
  
Singh, learned Advocate.

2. Considering the fact that both the matters are  
  
arising out of the same P.S. Case and, as such, they are being  
  
heard together and disposed off by the common order.



3. The application for grant of bail to the petitioner who is in custody in connection with Salkhua P.S. Case No. 94 of 2020 registered for the offence punishable under Sections 302, 504, 506 and 34 of the Indian Penal Code and Section 25(1-b)A, 26, 27 and 35 of the Arms Act.

4. Allegedly on 08.04.2020 at about 05:30 PM while the informant alongwith her husband and son were coming from the field carrying wheat on horse, in the meantime, 30 to 35 *naxalites* and criminal surrounded them, out of whom the informant identified 8 persons, including the petitioners. It is alleged that all accused persons started indiscriminate firing. The petitioner in Criminal Miscellaneous No. 56433 of 2024, also resorted firing over the deceased, due to which he sustained bullet injury in his abdomen. Whereas, the petitioner in Criminal Miscellaneous No. 60659 of 2024 allegedly fired upon the chest of the deceased. It is also alleged that on account of indiscriminate firing, the deceased sustained various other fire arm injuries, leading to his death.

5. Learned Advocate appearing on behalf of the petitioner submits that even as per the narrations made in the FIR, *prima facie* it appears that altogether 30 to 35 accused persons have surrounded the deceased and made indiscriminate



firing and thus, it is highly improbable that the informant could identify as to which firing the deceased has sustained fire arm injury, on which part of the body, that too, when on first firing sustained to the deceased, he fell down from the horse. This creates doubt on the whole prosecution story. It is further contended that just after the occurrence, on receipt of the information the police rushed at the place of occurrence and held camp for the entire night and thereafter, in the morning inquest report has been prepared. Later on, post-mortem was also done, but the FIR has been instituted at 10:00pm on 09.04.2020. The deliberation and the false implication of the petitioner cannot be ruled out, is the contention of the learned Advocate for the petitioner. Drawing the attention of this Court to the order passed by this Court in Criminal Miscellaneous No. 51821 of 2021 and other analogous cases, learned Advocate for the petitioners thus, contended that other co-accused persons having specific allegation of resorting firing, they have been accorded the privilege of regular bail by this Court. Various other orders have also been placed on record, the copies of which are also marked as Annexure 2 to 6 to the bail application, whereby this Court has granted bail to other co-accused persons. It is next contended that the statement of



informant and her son was also recorded by the police, where they have not made any specific allegation. It is lastly submitted that the deceased was a veteran criminal carrying 25 cases over his head and he might have been killed by some unknown persons, but on account of enmity, the name of the petitioners have been implicated.

6. On the other hand, learned Additional Public Prosecutor for the State and the informant vehemently opposed the bail application and submits that so far these two petitioners are concerned, there is a specific allegation of causing fire arm injury over the abdomen and chest, which are duly corroborated by the post-mortem report. The post-mortem report clearly demonstrates that the deceased has sustained eight fire arm injuries, out of which two fire arm injury have been found over the abdomen and chest, which are attributed to the petitioners. Drawing the attention of this Court to the order passed by this Court granting bail to other co-accused persons, learned Advocate for the informant further contended that in fact they have been granted bail as the post-mortem report did not corroborate the prosecution case. So far the present case is concerned, the post-mortem report corroborate the allegation. It is next contended that the petitioner in Criminal Miscellaneous



No. 60659 of 2024 bears 16 criminal antecedents whereas, in Criminal Miscellaneous No.56433 of 2024, the petitioner bears 12 criminal antecedents. Now the trial has commenced and four witnesses have also been examined.

7. Regard being had to the submissions made on behalf of the parties and considering the aforementioned submission and the fact that other co-accused persons having more or less identical allegation have been accorded the privilege of bail, taking note of the factum of delay in lodging of the FIR, despite the fact the police was all along present at the place of occurrence, all the more, the informant and her son claiming themselves eyewitness in their subsequent statement, not made any specific allegation against any of the accused persons, this Court also finds there is no likelihood of conclusion of trial; moreover mere criminal antecedent of a person cannot be the sole ground to keep him behind the bar, let the petitioners, named above, be released on bail on furnishing bail bonds of Rs. 25,000/- (Rupees twenty five thousand) **each** with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge, Saharsa in connection with Sessions Case No. 182 of 2024 arising out of 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 petitioners will cooperate in conclusion of the trial.

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

(iii) They 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, their 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 petitioners have concealed their criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the petitioners. 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.

8. It is expected that the learned Trial Court shall expedite the trial and conclude the same expeditiously.

**(Harish Kumar, J)**

supratim/-

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