

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61819 of 2023

Arising Out of PS. Case No.-143 Year-2022 Thana- BARHARIA District- Siwan

IRSHAD SHAH @ IRSHAD ALI Son of Shahnwaj Shah R/o vill - Babu
Hata Bazar, P.S. - Barhariya, Distt. - Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pushkar Narain Shahi, Sr. Advocate

For the Opposite Party/s : Mr. Bharat Bhushan, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

4 02-02-2024 Heard Mr. Pushkar Narain Shahi, learned Senior

Counsel for the petitioner and Mr. Bharat Bhushan, learned APP

for the State.

2. The petitioner is in custody in connection with Sessions Trial No. 394 of 2022 with S.Tr. No. 135 of 2023 arising out of Barhariya P.S. Case No. 143 of 2022 for the offence under Sections 341, 323, 324, 307, 504 and 34 of the Indian Penal Code and Sections 25(1-B)a and 26 of the Arms Act lodged on 31.03.2022 by the informant, Gayasuddin Sah.

3. Earlier the case of the petitioner was heard and rejected vide order dated 10.05.2023 passed in Cr. Misc. No. 11601 of 2023.

4. Again, a fresh application has been preferred whereafter a report was called for, which has since been



received vide letter no. 11 of 2024 dated 09.01.2024 according to which the summons have been issued to the witnesses and out of six witnesses, one has been examined while the rest five are yet to be examined.

5. As per the prosecution story lodged vide Barharia P.S. case no. 143 of 2022, is that on 30.03.2022, when the informant was sitting outside his house while his son was strolling, Sahnawaz Shah came with his son, Irshad Shah and as his son reached at the shop of Pradeep Pan, on the order of Sahnawaz Sah, Irshad Shah with the help of country made pistol tried to open fire. However, as Imtiyaz caught him and revolver fell on the earth, Irshad Sah with the help of knife caused injuries on the Stomach and neck of his son. As the informant came to his rescue, Shanawaz and Irshad beat him too. Thereafter with the help of villagers, he took his son to the Primary Health Centre from where he was referred to Sadar Hospital Siwan and later to Gorakhpur. Accordingly, the FIR.

6. Learned Senior Counsel for the petitioner submits the petitioner has already suffered by being in custody since 06.12.2022 (as stated in paragraph 9 of the bail application), he do not have criminal antecedent and is ready to cooperate in the trial which is going on before the Trial Court.



7. Learned APP for the State submits that he had given knife blow to the injured.

8. Taking into account the submissions put forward, perusing the report and as there is no likelihood of conclusion of Trial in near future, the petitioner do not have criminal antecedent, it is the undertaking given on his behalf by the learned Senior Counsel that he will be diligently appearing in the trial, this Court is inclined to extend him privilege of bail.

9. Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of like amount each to the satisfaction of learned Additional District and Sessions Judge-III, Siwan in connection with Sessions Trial No. 394 of 2022 with S.TR No. 135 of 2023 arising out of Barhariya P.S. Case No. 143 of 2022 subject to the following conditions:

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his bona fide;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial Court itself;



(iii) the petitioner shall appear before the concerned police station every month till the conclusion of the trial to mark his attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

10. With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

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