

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61042 of 2023

Arising Out of PS. Case No.-42 Year-2020 Thana- PAWANA District- Bhojpur

Sanjay Yadav @ Sanjay Singh @ Sanjay Kumar Singh S/O Bhola Yadav R/O
Village- Pawar, Ps. Pawana, Dist. Bhojpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Umesh Prasad

For the Opposite Party/s : Mr.Damodar Prasad Tiwary

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 29-02-2024 Heard the learned counsel for the petitioner and
learned APP for the State.

2. The petitioner seeks regular bail in a case registered for the offence under Sections 341, 323, 307, 504, 506/34, 326 of the Indian Penal Code and Section 27 of the Arms Act.

3. The following order was passed on 09.02.2023 in Cr. Misc. No. 31072 of 2022:-

“Heard learned senior counsel for the petitioner and learned Additional Public Prosecutor appearing for the State of Bihar.

The petitioner seeks bail in connection with Pawana PS Case No. 42 of 2020, dated 29-10-2020, registered for the offence punishable under Sections, 341, 323, 307, 504, 506/34 and 326 of the Indian Penal Code (for brevity IPC) and Section 27 of the Arms Act,1959.

The informant has alleged that one Kangresh Yadav has been shot at by the petitioner, and has sustained firearm injury on his back. The learned senior counsel submits that the death of the



alleged victim of assault has taken place 46 days after the alleged occurrence. The death has occurred due to medical negligence and lack of treatment rather than the gun shot injury. It is further submitted that the first version, which gave rise to the prosecution based on the First Information Report (for brevity FIR), is rendered doubtful by the subsequent statements recorded, during the course of investigation, including the statement of the victim, who has, subsequently, stated about firing been done by the two persons andnot only by this petitioner. The petitioner is also stated to be in custody since 10/8/2021.

The learned APP for the State has opposed the prayer for bail. With reference to the material in the case diary, he submits that the victim has also been examined in the course of investigation, prior to his death. He has reiterated the allegation of firearm assault levelled against the petitioner, but along with one co-accused. The two firearm injuries are corroborated in the postmortem report. The petitioner, therefore, cannot gain any advantage based on the statement of the victim. The submission is that the death, as per the postmortem report, has occurred due to septicemia arising out of the injury caused due to gunshot, inflicted by the petitioner.

This Court, considering the above submissions and nature of allegation, specifically, with reference to the material in the investigation, including the statement of the victim, who has also supported the allegation, regarding the petitioner firing upon him, for limited consideration of the plea for bail, is inclined to accept the submissions advanced by learned APP.

Prayer for bail made on behalf of the petitioner is rejected, for the present.

This Court would expect that the petitioner's counsel would honour his undertaking in the instant proceedings regarding supply of the requisite court fee etc. within two weeks from the date he is called upon to do so by the office."

4. This is the second attempt of the petitioner. The petitioner is in jail since 10.08.2021.

5. I see no reason to review the earlier order.



6. This application for regular bail is dismissed.

7. The court below is directed to expedite the trial of
the petitioner and conclude the same at the earliest.

(Sandeep Kumar, J)

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