

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53394 of 2024

Arising Out of PS. Case No.-234 Year-2023 Thana- CHAUSA District- Madhepura

Ashok Yadav, S/o Bishundeo Yadav @ Vishundev Yadav, R/O Village-
Dhuriya, Sautari Tola, P.S- Chausa, Distt.- Madhepura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 83660 of 2024

Arising Out of PS. Case No.-234 Year-2023 Thana- CHAUSA District- Madhepura

1. Biresh Yadav, S/o Shyam Sundar Yadav, Resident of village- Dhuria Sautari,
PS- Chausa, District- Madhepura
2. Rupesh Yadav, Son of Shyam Sundar Yadav, Resident of village- Dhuria
Sautari, PS- Chausa, District- Madhepura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 53394 of 2024)

For the Petitioner/s : Mr. Pawan Kumar, Adv.

For the Opposite Party/s : Mr. Sunil Kumar Pandey, APP

Mr. Uday Chand Prasad, Adv.

(In CRIMINAL MISCELLANEOUS No. 83660 of 2024)

For the Petitioner/s : Mr. Barun Kumar Singh, Adv.

For the Opposite Party/s : Mr. Ram Bilash Roy Raman, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 17-12-2024 Since both the matters arise out of the same P.S. case,

hence, with consent of the parties, they are taken up together

and disposed of by a common order.



2. Heard learned counsel for the petitioners, learned Additional Public Prosecutors for the State and learned counsel for the informant.

3. The petitioners apprehend their arrest in connection with Chausa P.S. Case No. 234 of 2023 registered for the offences punishable under Sections 341, 307, 504 and 506/34 of the Indian Penal Code and Section 27 of the Arms Act.

4. Based upon the written report, the prosecution alleges that while the informant was coming to his house after attending *Sharaddha* Ceremony, in the meantime, all the FIR named accused persons, including the petitioners armed with weapons encircled him. It is specifically alleged that the petitioner Ashok Yadav (in Cr. Misc. No. 53394 of 2024) fired upon the informant on his chest but he anyhow saved himself and the bullet hit on his right side. The petitioner Biresh Yadav (in Cr. Misc. No. 83660 of 2024) fired upon the informant due to which he sustained firearm injury on his left arm. The petitioner Rupesh Yadav (in Cr. Misc. No. 83660 of 2024) also fired but the bullet did not hit the informant. It is also alleged that all the accused persons made indiscriminate firing and after giving threatening to the informant fled away.

5. Learned counsel for the petitioners drawing the



attention of this Court to the narrations made in the FIR, contended that the informant himself stated that he identified the accused persons in the light of the torch. Thus, it is very difficult for a person to make a specific allegation that on whose fire the informant sustained injury on which part of the body; when admittedly it was a dark night. It is further contended that the allegation of firing has not been corroborated by the injury report of the injured-informant, wherein the doctor has categorically opined that the injury sustained, is caused by hard and blunt substance. There is no suggestion that the injured sustained any firearm injury. It is next contended that though the occurrence took place on 13.08.2023 but, surprisingly, the written report has been submitted on 16.08.2023, though the petitioner had all along been under treatment in the Government hospital. It is also the contention of the petitioners that there is previous enmity between the parties, resulting into lodging of the FIR. Petitioner Ashok Yadav (in Cr. Misc. No. 53394 of 2024) bears three criminal antecedent whereas petitioner Birjesh Yadav (in Cr. Misc. No. 83660 of 2024), bears one criminal antecedent and petitioner Rupesh Yadav (in Cr. Misc. No. 83660 of 2024), has got fair antecedent.

6. On the other hand, learned counsel for the



informant and learned counsel for the State vehemently opposed the bail applications and submitted that there is specific accusation against the petitioners of causing firearm injury to the injured-informant, which is also corroborated by the injury report. So far the delay in lodging the FIR is concerned, it has categorically been explained in the FIR itself that the informant was under treatment. The FIR also discloses that the informant identified the petitioners in the torch light, apart from the fact that there was also other source of light.

7. Regard being had to the submissions made on behalf of the parties and considering the fact that the informant has sustained injury in the night of 13.08.2023 and he all along remained in treatment in a Government Hospital for three days but neither his *fardbeyan* was recorded nor he filed any written report and the present FIR has been instituted after three days; moreover, the injury report clearly suggests that there is no firearm injury and the injury, if any, caused to the informant i.e. by the hard and blunt substance, though it is found to be grievous, let the petitioners, named above, be released on bail, in the event of their arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing bail bond of Rs. 20,000/- (Twenty thousand) each with two



sureties of the like amount each to the satisfaction of learned S.D.J.M., Udakishunganj, Madhepura in connection with Chausa P.S. Case No. 234 of 2023, subject to the condition as laid down under Section 438(2) of the Cr.P.C., with further conditions which are as follows:-

(i) One of the bailors shall be the own/close family members of the petitioners.

(ii) The petitioners will cooperate in conclusion of the trial.

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

(iv) They will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(v) In the event of default of two consecutive dates without any cogent reason, their bail bonds will liable to be cancelled.

(vi) The court below shall verify the criminal antecedent of the petitioners 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.

(Harish Kumar, J)

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