

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4885 of 2024

Arising Out of PS. Case No.-431 Year-2022 Thana- KATIHAR NAGAR District- Katihar

Shyam Sundar Jha @ Kalu Jha Son of late Naresh Mohan Jha Resident of
Mohalla - Shiv Mandir Naya Tola, Ward No. 31, P.S. Nagar, District- katihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vaishnavi Singh, Advocate

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

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 07-02-2024 Heard learned counsel for the petitioner, learned
counsel for the informant and learned Additional Public
Prosecutor for the State.

2. The petitioner seeks regular bail in connection with
Katihar Nagar P.S. Case No.431 of 2022, lodged on
22.07.2022, under Sections 341/323/307/504/506/34 of the
Indian Penal Code and Section 27 of the Arms Act.

3. As per the prosecution, the allegation against the
present petitioner is that the petitioner and his son has fired due
to which the informant became unconscious and by virtue of
firing of the petitioner and his son, the informant received
grievous injury on his leg and hand. Thereafter, he was
admitted to hospital.

4. Learned counsel for the petitioner submits that the



petitioner is innocent and has committed no offence. Counsel submits that both informant and petitioner are full brothers. The attitude of the petitioner and informant has been disclosed nonetheless by their father in the form of informatory petition dated 02.03.2016 (Annexure-4), which is attached with this bail petition. Counsel for the petitioner submits that the father has categorically disclosed in his informatory petition that the informant wants to kill the father with a view to get service after his death. It has also been disclosed that there is inimical relation between the brothers which resulted into the filing of the FIRs against each other, which is annexed as Annexure-1, Annexure-2 and Annexure-5.

5. Learned counsel for the petitioner on merit submits that it is true that there is an allegation of firing of gun shot against the petitioner but it is also true that those gun shot has been made only on leg and hand. Therefore, there was no intention to kill and, therefore, offence under Section 307 IPC is not attracted. Counsel further submits that the petitioner is in custody since 17.07.2023. Initially one criminal antecedent has been disclosed but subsequently by supplementary affidavit it has been disclosed that five more criminal cases, i.e., six criminal cases are said to be pending against him. Out of which



in two cases he was acquitted and in four cases he was on bail.

6. Learned counsel for the State opposes the prayer for bail.

7. Learned counsel for the informant, on the other hand, submits that the petitioner has not filed this case before this Court with clean hand. He submits that as per the instruction as far as 11 cases pending but he has suppressed those cases before the Court. Counsel further submits that it is true that both are full brothers and there are inimical relation between them.

8. In the present facts and circumstances of this case and the submissions made above, let the petitioner, above named, be granted bail **with condition that the informant shall provide information to the Court within seven days from the date of furnishing bail bond about all pending cases and if it is found that petitioner's antecedent is more than seven including the present one, he shall not be released on bail, but if it is found that there are only seven criminal cases including the present one he shall be immediately released on being satisfied that he is not absconding in any case, on furnishing bail bonds of Rs.30,000/- (Rupees Thirty thousand) with two sureties of the like amount each to the satisfaction of**



learned Chief Judicial Magistrate, Katihar, in connection with Katihar Nagar P.S. Case No.431 of 2022, subject to the conditions as laid down under Section 437(3) of the Code of Criminal Procedure with other 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 bonds by the Trial Court itself;

(iii) The petitioner shall appear before the concerned police station every month for one year to mark attendance;

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

(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 the bail bonds.

(vi) In case, the informant fails to produce the details of 11 criminal cases pending against the petitioner



within seven days, the trial Court is free to release the petitioner on bail.

9. It transpires to this Court that there are in total seven criminal cases including the present one pending against the petitioner. The details of those cases are as follows:-

- I. Katihar Nagar P.S. Case No.605 of 2021
- II. Katihar Nagar P.S. Case No.40 of 2006
- III. Katihar Nagar P.S. Case No.630 of 2021
- IV. Katihar Nagar P.S. Case No.691 of 2019
- V. Sahayak P.S. Case No.250 of 2006
- VI. Katihar Nagar P.S. Case No.53 of 2017

(Dr. Anshuman, J)

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