

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5396 of 2025

Arising Out of PS. Case No.-59 Year-2024 Thana- BASANHI District- Saharsa

Ashish Yadav, S/o Sachendra Yadav @ Sachen Yadav, R/o village- Balaitha,
P.S-Basnahi, District -Saharsa

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Yogesh Chandra Verma, Sr. Advocate

For the Opposite Party/s : Mr. Satyendra Narayan Singh, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 25-04-2025 Heard Mr. Yogesh Chandra Verma, learned Senior Advocate appearing on behalf of the petitioner and Mr. Satyendra Narayan Singh, learned Additional Public Prosecutor for the State.

2. The application for grant of bail to the petitioner who is in custody in connection with Basnahi P.S. Case No. 59 of 2024 registered for the offence punishable under Sections 341, 323, 307, 447, 504, 34 and 120B of the Indian Penal Code and Section 27 of the Arms Act and subsequently Section 302 of the Indian Penal Code was also added.

3. Based upon the *fard beyan* of the informant it is alleged that on account of a dispute which has arisen in course of purchase of fish from the shop of the informant and his uncle, the petitioner alongwith co-accused Biplav Yadav armed with



weapon came there and fired upon the uncle of the informant, due to which he sustained fire arm injury on his forehead, which proved fatal. It is further alleged that on hearing a gun shot, other people rushed to the place of occurrence and found that the petitioner and other three criminals were fleeing away.

4. Learned Senior Advocate appearing on behalf of the petitioner has taken this Court through the FIR and contended that there is omnibus allegation against the petitioner and co-accused Biplav Yadav of causing firing upon the deceased, even so the post-mortem report suggest only one bullet injury found over the body of the deceased. It is further submitted that during the course of investigation the statement of the witnesses were recorded by the investigating officer, but none of them has specifically contended that it is the petitioner whose firing proved fatal, rather omnibus allegation has been levelled that petitioner alongwith other co-accused persons have made firing, out of which only one bullet hit the deceased. Taking note of the aforesaid fact one of the co-accused namely Biplav Yadav has been extended the privilege of regular bail by this Court in Criminal Miscellaneous No. 60792 of 2024 vide order dated 26.10.2024. It is further contended that only on account of the fact that some quarrel took place between the



petitioner and the uncle of the deceased alongwith Biplav Yadav, they have been shown to be main assailant; nonetheless, the entire investigation suggest that there were altogether five persons who were involved in the crime in question. It is lastly contended that be that as it may, now the investigation is complete and the petitioner undertakes that he will fully cooperate in the proceeding of the Court.

5. On the other hand, learned Additional Public Prosecutor for the State vehemently opposes the bail application and submits that while pressing the bail application of Biplav Yadav, a submission has been made that it is Ashish Yadav who got the fatal injury, however, he fairly submitted that this fact has come in the confessional statement of co-accused Biplav Yadav, who confessed before the police that it is Ashish Yadav, who shot the uncle of the informant dead. He further submits that the petitioner and other persons were identified through the cctv footage in course of fleeing and, as such, their complicity in causing the death of deceased cannot be ruled out; moreover, the petitioner bears four criminal antecedent as has been narrated in paragraph no. 3 of the bail application.

6. Regard being had to the submissions made on behalf of the parties and considering the materials available on



record, as also the statement of the independent witnesses who have stated that five accused persons were involved in the crime and all of them have fired over the deceased, however only one injury has been found over the body of the deceased as per the post-mortem report; the case of the petitioner is based on parity with that of Biplav Yadav who has been extended the privilege of bail by this Court and the petitioner has been incarcerated since 11.06.2024, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Incharge Chief Judicial Magistrate, Saharsa in connection with Sessions Trial No. 297 of 2024 arising out of Basnahi P.S. Case No. 59 of 2024, 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 petitioner will cooperate in conclusion of the trial.

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

(iii) He 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, his 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 petitioner has concealed his criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the petitioner. 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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