

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6265 of 2025

Arising Out of PS. Case No.-221 Year-2020 Thana- GOPALGANJ TOWN District-
Gopalganj

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Mukesh Kushwaha @ Mukesh Bhagat @ Mukesh Kumar Bhagat S/O Sri
Ganesh Bhagat Kushwaha @ Sri Ganesh Bhagat @ Ganesh Kushwaha
Resident of Village- Banjari Ward No. 11, P.O and P.S- Gopalganj, Distt.-
Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Ansul, Sr. Advocate Mr. Vyas Kumar Mishra, Advocate Mr. Anshul Aaryan, Advocate Mr. Aditya Raj Singh, Advocate
For the State	:	Mr. Raj Kishor Singh, APP
For the Informant	:	Mr. Sanjay Kumar, Advocate

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CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

5 21-05-2025 Heard Mr. Ansul learned senior counsel for the

petitioner, learned APP for the State and learned counsel for

the Informant.

2. The petitioner makes a prayer for bail in
connection with Gopalganj Town P.S Case No. 221 of 2020
registered for offences under Sections 307, 326, 34 of Indian
Penal Code and Section 27 of the Arms Act and Section 302
of the Indian Penal Code.

3. The allegation in the First Information Report has
been made by the informant that his father was shot-at by the
petitioner and two accused persons Mukesh Kushwaha and



Bushan Kushwaha from a distance of five feet. It is further alleged that when the father of the informant fell down co-accused Bhushan Kushwaha fired at the back of the deceased and all the three accused persons fled away on their motorcycle. The later part of the First Information report has specifically disclosed that the firing made by petitioner Mukesh Kushwaha hit the deceased on his chin and the said bullet was removed at the Primary Health Centre during the course of treatment.

4. Learned senior counsel appearing for the petitioner submits that from a bare perusal of the First Information Report itself, it would be clear that the gun shot which has been attributed to the petitioner has hit the chin of the deceased on account of which he was treated at the Primary Health Centre. The subsequent allegation of firing at the back of the deceased is specific on Bhushan Kushwaha and the learned senior counsel has invited the attention of the Court to the post mortem report which would show that the external injury only relates to a stitched wound on the lower back which is an inch away from the vertibral column. And the death in the opinion of the doctor was due to septicemia as a result of the said injury. On the strength of the post



mortem report, the learned senior counsel has submitted that it does not refer to any injury being caused at the chin much less the same being the cause of death of the deceased. It has also been submitted that there is a long drawn civil dispute between the parties and the same has been referred to in the petition filed on behalf of the petitioner and it is due to such property dispute that the petitioner has also been made an accused in the present case. Further, the petitioner is in custody since 17.01.2024 and after the charges having been framed it is submitted that no further progress in the trial has been made.

5. The learned APP for the State and the counsel for the informant however, opposes the grant of bail and they point out that the injury report of the deceased would show that the deceased had received a lacerated wound over the chin of size 2*1/2 in the oral cavity along with another injury on the back which has been attributed to a different person. However, it has been pointed out that both the injuries have been caused by fire arm and they are both grievous in nature. It has also been submitted that the petitioner has a long list of criminal antecedent, however, the learned senior counsel appearing on behalf of the petitioner submits that there are



only five cases pending against the petitioner mostly in which the petitioner is on bail and there are few other cases lodged upon him which have resulted in an acquittal and a detail of the same has been given in paragraph 18 of the said petition.

6. It is to be taken into consideration that the petitioner has remained in custody since 17.01.2024 with no progress in the trial after framing of charge and the main allegation of firing at the back which, according to the postmortem report, is the cause of death, is not attributed to the petitioner and further, the postmortem report does not mention any injury upon the chin.

7. Considering the aforesaid facts and circumstances, let the petitioner is enlarged on bail on furnishing bail bond of Rs.10,000/- (Ten Thousand) with two sureties of the like amount, each to the satisfaction of learned Additional Sessions Judge-XV, Gopalganj in connection with Gopalganj Town P.S Case No. 221 of 2020 subject to the condition that:-

(i) The criminal antecedent of the petitioner shall be verified expeditiously without causing any delay in the process.

(ii) The petitioner would physically be present on



all the dates during the trial and his absence on two consecutive dates would give a liberty to the learned Court below to cancel the bail bonds of the petitioner.

(iii) One of the bailors shall be a family member or a close relative of the petitioner.

(Soni Shrivastava, J)

Raj Ranjan/-

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