

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76935 of 2024

Arising Out of PS. Case No.-71 Year-2024 Thana- SAUR BAZAR District- Saharsa

Shankar Sah Son of Bino Sah @ Bindeshwari Sah Resident of Village -
Itahara, P.S.- Sour Bazar, District - Saharsa

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pratik Mishra, Advocate
For the Informant : Mr. Binod Murari Mishra, Sr. Advocate
For the Opposite Party/s : Ms. Rina Sinha, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 17-01-2025 Heard learned Advocate for the petitioner, learned
Advocate for the informant and learned APP for the State.

2. A supplementary affidavit has been filed in compliance
with the order of this Court.

3. At the outset, the petitioner tendered unconditional
apology for his inadvertent mistake and categorically stated that
since the entire family members were made accused in the case
in hand, on account of some miscommunication, it has been
stated that the petitioner is made accused in only two cases.
However, after proper inquiry, it has found that the petitioner is
made accused in altogether five criminal cases which has been
disclosed in paragraph no.7 of the supplementary affidavit.

4. The petitioner seeks regular bail, who is in custody in



connection with Sour Bazar P.S. (Baijanathpur O.P.) Case No. 71 of 2024 registered for the offence punishable under Sections 302/34 of the Indian Penal Code and Section 27 of the Arms Act.

5. Allegedly, on 22.01.2024, while the informant along with his father was sleeping on the same bed, in the meantime, at around 12 midnight, the petitioner along with other four named accused persons and 5-6 unknown persons variously armed came there and made indiscriminate firing. It is specifically alleged that on the exhortation made by this petitioner all the accused persons present there made indiscriminate firing. It is specifically alleged that the bullet fired by the petitioner along with co-accused, Anand Kumar Sah and Mantu Kumar hit on the head of his father, leading to his extraneous death. The informant anyhow saved himself thereafter accused persons left the place. The reason behind the occurrence is said to be the rivalry of *Mukhiya* election.

6. Learned Advocate for the petitioner referring to the materials available on record has submitted that the alleged occurrence took place at 12:00 of the midnight on 22.01.2024 and the FIR has been instituted at 10:15 in the night of 23.01.2024. It is further contended that soon after the



occurrence, the police reached at the place of occurrence and prepared the inquest report at around 08:25 AM on 23.01.2024 wherein the younger son of the deceased was one of the signatory. The seizure list has also been prepared at around 08:25 AM. The dead body of the deceased was sent to the hospital for postmortem and the same has also been done at 02:10 PM.

7. Referring to the narrations made hereinabove, Mr. Mishra contended that surprisingly, at no point of time, neither the fardbeyan of the informant or his family members was recorded nor the written report has been given to the police and after due deliberation, the present F.I.R. has been instituted implicating the name of the petitioner and all his brothers. It is also the contention of the petitioner that the postmortem report does not corroborate the allegation, inasmuch as, only one bullet injury has been found whereas there is specific allegation of firing against three persons which said to be hit on the head of his father. During course of investigation, the police has found no complicity of two of the accused persons, who also allegedly fired on the deceased, resulting into not sending them for trial. However, later on, the learned jurisdictional court differing with the final report has taken cognizance. The conduct of the



informant is also found to be unnatural, apart from the manner in which he has precisely narrated the story, when the occurrence is said to have taken place in the midnight. The petitioner has been incarcerated since 22.06.2024. The investigation is completed.

8. On the other hand, learned senior Advocate for the informant as well as learned APP for the State vehemently oppose the bail application and submits that be that as it may; the informant is an eyewitness to the alleged occurrence who has disclosed the entire facts and it is the petitioner, who exhorted and thereupon fired upon the deceased, along with others, resulting into his death on the spot. It is also contended that the reason for delay in lodging of the F.I.R. is also reasonable as the father of the informant was shot dead and all the family members were engaged in postmortem and other formalities.

9. Regard being had to the submissions made on behalf of the parties and considering the materials available on record, especially the postmortem report which doesn't corroborate the allegation inasmuch as the police has not found veracity in the allegation levelled by the informant resulting into final form showing two of the persons as innocent, out of which one of the



person is said to be assailant, couple with the delay in lodging of the F.I.R. and genesis of the occurrence, 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 Additional Chief Judicial Magistrate II, Saharsa in connection with Sour Bazar P.S. (Baijanathpur O.P.) Case No. 71 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.

10. However, this Court finds that the petitioner has given an incorrect information with regard to the criminal antecedent and as such, the petitioner shall pay a cost of Rs. 10,000/- to the Patna High Court Legal Services Committee, Patna, before submission of the bail bond.

(Harish Kumar, J)

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