

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63796 of 2019**

Arising Out of PS. Case No.-1226 Year-2018 Thana- SAHARSA District-
Saharsa

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KUSHAGRA KUMAR @ GABBAR BALMIKI @ GABBAR MALIK S/o
Vishundeo Malik @ Vishundeo Balmiki Resident of Village Gandhipath,
Ward No. 08, P.S. and District- Saharsa.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner : Mr. Ramakant Sharma, Sr. Advocate.
Mr. Shekhar Kumar Singh, Advocate.
For the State : Ms. Rina Sinha, APP
For the Informant : Mr. Chandra Mohan Jha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

2 11-12-2019 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner is in custody since 20.11.2018 in connection with Saharsa (Sadar) P.S. Case No. 1226 of 2018 for the offences alleged under Sections 147, 148, 149, 448, 341, 323, 379, 354, 384, 302, 504, 506 of the Indian Penal Code and Section 27 of the Arms Act.

3. It is submitted that the petitioner has been falsely implicated in connection with the alleged murder of the informant's husband. It is submitted that the informant has made allegation of firing by three persons namely the petitioner,



co-accused Kanhaiya Malik and Raja Malik causing injury on the left side of chest as a result of which he died. It is submitted that the accusation is not corroborated from the post mortem report of the deceased which discloses only one firearm injury on the left side of the chest. The petitioner is accused in six prior cases, in three out of which he has been acquitted. The aforesaid co-accused Raja Mallick @ Raja Kumar Balmiki has since been granted bail by a coordinate Bench of this Court in Cr. Misc. No. 25203 of 2019.

4. Learned APP assisted by learned counsel for the petitioner opposes the petition, submitting that there is direct allegation of firing by the petitioner and two other co-accused persons upon the deceased. Learned counsel for the informant submits that the mother-in-law and son of the informant were eye witnesses as the occurrence has taken place inside the house. He further invites reference to paragraph-3 of the petition enumerating as many as 7 prior cases in which the petitioner has been made accused, all of which relate to grave offences. It is stated that the petitioner had been convicted and sentenced to life imprisonment in Saharsa (Sadar) P.S. Case No. 109 of 2006 under Section 302/34 of the Indian Penal Code in which the sentence was modified and reduced to ten years during which he remained in custody and was released thereafter.

5. Having regard to the nature of accusation, gravity of



the offence alleged and the criminal antecedents of the petitioner,
this Court is not inclined to grant the privilege of bail to the
petitioner. The petition stands dismissed.

(Vikash Jain, J)

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