

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.18624 of 2021**

Arising Out of PS. Case No.-93 Year-2019 Thana- GURUA District- Gaya

Nasrullah Khan, Son of Vaidul Khan, R/O Village- Gamharia, P.S.- Gurua,
District- Gaya.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. N.K. Agarwal, Sr. Advocate Ms. Preety Kunwar, Advocate
For the Opposite Party/s	:	Mr. Rabindra Kumar, A.P.P.
For the Informant	:	Mr. Praveen Kumar, Advocate

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

2 02-08-2021 Learned counsel for the petitioner undertakes to

remove all the defects as pointed out by office within four

weeks after start of normal functioning of the Court.

Heard Mr. N. K. Agarwal, learned Senior Counsel for
the petitioner assisted by Ms. Preety Kunwar, Mr. Praveen
Kumar, learned counsel for the informant and Mr. Rabindra
Kumar, learned A.P.P. for the State.

Petitioner in the present case is seeking regular bail in
connection with Gurua P.S. Case No. 93 of 2019 registered for
the offence punishable under Section 147, 148, 149, 120(B),
302, 504 and 506 of the Indian Penal Code and Section 27 of
the Arms Act.

Learned Senior Counsel for the petitioner submits that from perusal of the First Information Report itself it would appear that informant is an eye witness and has narrated the entire occurrence. According to him, the petitioner along with seven other persons lashed with lathi, danda and other weapons came to the door of the informant and got involved in the quarrel with the younger brother of the informant. The co-accused Matol Khan instigated his son Gajanfar @ Sonu Khan to shot at Fakre Alam (the younger brother of the informant) whereafter all the accused persons caught hold of his younger brother and co-accused Gajanfar @ Sonu Khan fired upon the brother of the informant from a close range. His brother fell down and became restless whereafter he was brought to the hospital where he was declared dead.

Learned Senior Counsel for the petitioner submits that it is a case of false implication of each and every member of the family with the aid of Section 149 of the Indian Penal Code.

It is submitted that the specific allegation of firing is against co-accused Gajanfar @ Sonu Khan. This petitioner is in jail for about one year but till date the charge has not been framed against him. Co-accused Matol Khan has been granted bail by a learned co-ordinate Bench of this Court in Cr. Misc.

No. 19948 of 2020.

Learned Senior Counsel for the petitioner has confirmed that the co-accused has already been released on bail whereas in the case of the present petitioner the charge has not been framed.

On the other hand, learned counsel for the informant as well as learned A.P.P. for the State have opposed the prayer for bail of the petitioner.

Learned counsel for the informant submits that in the post-mortem report three injuries have been found on the body of the deceased and considering that the allegations are against all the accused, the petitioner does not deserve privilege of bail.

Considering the facts and circumstances of the case wherein the informant is an eye witness, he has made specific allegation of firing against the co-accused namely Gajanfar @ Sonu Khan and no specific overt act has been alleged against this petitioner, the co-accused who was allegedly the order giver is on privilege of bail, the petitioner has remained in custody in connection with this case for almost one year, however, the charge has yet not been framed against the petitioner and the trial is not likely to take place in near future particularly in the present day Pandemic situation when the courts are not working

physically, this Court directs release of the petitioner above named on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of Sri S.K. Singh, learned Judicial Magistrate 1st Class, Sherghati, Gaya in connection with Gurua P.S. Case No. 93 of 2019, subject to the condition as laid down under Section 437 (3) Cr.P.C. as under :

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that the petitioner shall cooperate in course of trial as and when required in the trial court he would appear and two consecutive defaults in putting appearance shall invite action towards cancellation of bail bond of the petitioner.

And further condition that 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 step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajeev Ranjan Prasad, J)

vats/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.