

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29419 of 2021

Arising Out of PS. Case No.-9 Year-2021 Thana- DALSINGHSARAI District- Samastipur
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RAKESH MANDAL @ RAKESH KUMAR Son of Late Surya narayan Mandal
Resident of Village- Loknathpurganj, P.S. - Dalsinghsarai, District -
Samastipur.

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

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Appearance :

For the Petitioner/s	:	Mr. Sandeep Kumar
	:	Mr.Alok Kumar @ Alok Kr Shahi
For the Opposite Party/s	:	Mr.Nand Kumar.
For the Informant	:	Mr. Sujeet Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

3 14-07-2021 Heard Mr. Sandeep Kumar, learned counsel for

the petitioner and Mr. Sujeet Kumar Singh, learned counsel

for the informant. The State is represented by Mr. Nand

Kumar, learned APP .

The petitioner seeks bail in connection with

Dalsingsarai P.S. Case No. 09/2021 dated 04.01.2021

instituted for the offences under Sections 341, 324, 326,

307, 506/34 of the Indian Penal Code and Section 27 of the

Arms Act.

According to the First Information Report, the



petitioner is said to have fired from his weapon resulting in two gunshot injuries on the informant.

This court had noted in the order dated 14.06.2021 that a long story has been narrated in the F.I.R. where the informant has alleged that he was being pressurized by the petitioner and his associates for purchasing a plot of land for expanding his business. The informant never agreed for the same. This, according to the informant, was the reason for the ire of the petitioner and his other associates. It has also been stated in the First Information Report that on one occasion, when the informant along with one Sitaram Sada was going to a barber shop, the petitioner is said to have come on a motorcycle driven by another person and fired from his weapon.

It has been argued on behalf of the petitioner that the case is absolutely false and concocted. The informant had not received such injuries which would have made him senseless straightaway. Despite that, the F.I.R. was lodged after 22 hours. He further submits that the Investigating



Officer was directed to investigate into the participation of unknown criminals and the property dispute before submitting chargesheet against the petitioner but that was not done and in a slipshod manner, the investigation was concluded. It has also been argued that initially when the informant was treated, the doctors found two injuries on his person and referred him to Sadar district hospital Dalsingsarai for further treatment. Till the time of recording the initial case diary, no report was submitted by the informant and, therefore, in the early part of the investigation, the nature of injuries could not be deciphered. However, later, it was found that the informant had received treatment in Sadar district hospital Dalsingsarai and the injuries suffered by him was found to be grievous.

Learned counsel for the petitioner has submitted that the petitioner being a person of very heavy weight, it was not possible for him to pillion ride on the motorcycle. He has been made accused in this case because of property dispute. The informant himself is not having a good reputation in the society as a broker/ property dealer and



only because he has some axe to grind against the petitioner, he has been made accused in this case. Lastly, it has been submitted that even in C.C.T.V. footage of the day and place of occurrence, it was found that he was moving in a four wheeler and not on a motorcycle.

The petitioner is said to be in custody since 6.01.2021 and it has been submitted that no useful purpose would be served in keeping the petitioner in continued incarceration when chargesheet has already been submitted.

As opposed to the aforesaid contention, Mr. Sujeet Kumar Singh, learned counsel for the informant has pointed out that while fleeing from the police, the petitioner was apprehended at a toll plaza. From his vehicle, several arms were recovered.

The learned counsel for the petitioner has argued that assuming but not admitting that some weapons were found in the vehicle in which the petitioner was travelling and apprehended by the police, that by itself would not make him a criminal. Uptil now, the petitioner has not been made accused in any case whatsoever. No case under Arms Act



after the recovery of the arms referred to above from his vehicle, has yet been registered.

Mr. Sandeep Kumar, learned counsel for the petitioner has submitted that in case of any apprehension in the mind of the informant that he would tamper with the evidence or would try to impede the process of the trial in case he is released on bail, the petitioner is ready to surrender his weapons to the licensing authority but subject to his rights and contentions later and it be not taken as a ground for cancellation of his license to hold arms.

Having perused the First Information Report and the investigation papers and having heard the arguments on behalf of the parties, this court is of the view that now that the petitioner has remained in jail for more than six months and his assurance that he shall not tamper with the evidence or delay the process of trial, he may be enlarged on bail.

The petitioner, above named, is directed to be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial



Magistrate, Dalsingsarai, Samastipur in connection with
Dalsingsarai P.S. Case No. 09/2021 subject to the following
conditions :-

(i) The petitioner would surrender his fire
arms before the licensing authority till the time
the trial is concluded.

(ii) The petitioner is cautioned and directed
that he shall not cross roads with the informant
or try to intimidate him or anyone of his
witnesses.

(iii) The petitioner shall participate in the trial
in all earnestness and would not make any
attempt to impede the speed and process of the
trial.

In the event of the petitioner breaching any one of
the conditions of this order, it would be open for the
informant to file an appropriate application for cancellation
of his bail.

While directing for grant of bail, this court has
taken note of the fact that the petitioner is a businessman of



the locality and there is dispute with the informant with respect to purchase of a property belonging to a particular family and that the petitioner does not bear criminal antecedents.

The petition stands disposed of accordingly.

(Ashutosh Kumar, J)

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