

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.23597 of 2020

Arising Out of PS. Case No.-222 Year-2018 Thana- BARGAINIA District- Sitamarhi

MD. RUSTAM KHAN @ RUSTAM KHAN S/o Late Hasib Khan Resident
of Village-Akhta Gote, P.S.-Bairgania, District-Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Y. C. Verma, Sr. Adv. Mr.Sanjay Kumar
For the Opposite Party/s	:	Ms. Nirmala Kumari
For the informant	:	Mr. Ramchandra Singh

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL ORDER

7 02-03-2021 Heard learned Senior Counsel for the petitioner,
learned Counsel for the informant and learned Additional Public
Prosecutor for the State.

The petitioner seeks regular bail in connection with
Bargania Police Station Case No. 222 of 2018, registered for the
offence punishable under Sections 147/148/149/325/323/307/
120-B/302/34 of the Indian Penal Code Section 27 of the Arms
Act.

This is the second attempt on behalf of the petitioner
for grant of regular bail. Earlier the prayer for bail of the
petitioner was rejected by this Court, vide order, dated
30.08.2019, passed in Criminal Misc. No. 34927 of 2019, with



liberty to renew the prayer for bail after nine months if the trial does not show any substantial progress.

The allegation, as per the First Information Report, is that the uncle of the informant, along with the informant, was going towards his shop and the petitioner, along with other co-accused, variously armed with lethal weapon, surrounded the uncle of the informant and the petitioner fired upon him by means of rifle, due to which he died.

Learned Senior Counsel for the petitioner submits that the petitioner has falsely been implicated in this case due to village rivalry and he has not committed any offence in the manner alleged. He further submits that the petitioner has remained in custody since 19.09.2018, i.e. for more than two years. He, referring to the supplementary affidavit, submits that altogether eight prosecution witnesses have been examined and none of them have supported the prosecution version and they have been declared hostile. He further submits that eight seizure list witnesses have also been examined by the prosecution and they have also not supported the prosecution version in its totality. He further submits that only the Investigating Officer and the doctor are yet to be examined and, thus, there is no likelihood of the petitioner being abscond or tamper with the



evidence.

On the other hand, learned Counsel for the informant submits that the petitioner has brought on record the deposition of eight prosecution witnesses, from which it appears that they have not supported the prosecution story and have been declared hostile.

Having heard learned Counsel for the parties and taking into consideration the materials on record and the fact that the petitioner is in custody since 29.09.2018 and the observation made in the order, dated 30.08.2019, passed in Criminal Misc. No. 34927 of 2019, I am inclined to grant regular bail to the petitioner.

This application is allowed.

Accordingly, let the petitioner, above named, be released on bail, upon furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Sitamarhi, in connection with Bairgania Police Station Case No. 222 of 2018.

This is subject to the condition that the petitioner shall present himself before the Court, as and when required and in the event of failure on his part to appear before the Court on two consecutive occasions, his bail bond shall be liable to be



cancelled.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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