

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3540 of 2022

Arising Out of PS. Case No.-121 Year-2021 Thana- PHULWARIYA District- Gopalganj

NITISH KUMAR @ NITESH KUMAR @ NEHAL Son of Ramashish Sah
R/o Village- Amtha Bhuwan, P.S.- Uchkagaon, District- Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dhramveer

For the Opposite Party/s : Mr.Anil Prasad Singh

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

5 19-09-2022 Let the defect(s), as pointed out by the office, be removed within a period of four weeks from today.

Heard learned counsel for the petitioner and learned A.P.P. for the State.

The petitioner seeks bail in connection with Fulwaria P.S. Case No. 121/2021 registered for the offences punishable under Sections 302/34 of the Indian Penal Code and Section 27 of the Arms Act.

As per prosecution case, the informant's father went to attend the Tilak Ceremony and at 7.35 he left the Tilak Ceremony. At about 9.00 pm the, informant got information that in between Murar Bataraha Temple and Petrol Pump some unknown criminal has committed murder by firing.

Learned counsel for the petitioner submits that



petitioner is innocent and has falsely been implicated in this case merely on suspicion. The petitioner is not named in the FIR and the FIR lodged against unknown. During course of investigation, the name of petitioner transpired in this case on the basis of confessional statement of co-accused, Amit Pandey. Except confessional statement of co-accused, nothing on record to demonstrate the complicity of the present petitioner with the alleged occurrence. Learned counsel for the petitioner further submits that the petitioner is languishing in custody since 30.06.2021 and bears criminal antecedent of 06 cases. Charge sheet has been submitted in this case and there is no likelihood of tampering with the prosecution evidence.

The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner.

Considering the facts and circumstances of the case, period of custody, petitioner is not named in the FIR, charge sheet has already been submitted in this case and there is no likelihood of tampering with the prosecution evidence and also taking into consideration the material available on record, let the petitioner above named be released on bail **after framing of charge** on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the



satisfaction of learned Judicial Magistrate-1st Class, Gopalganj in connection with Fulwaria P.S. Case No. 121/2021, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

(iii) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Alok Kumar Pandey, J)

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