

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3401 of 2022

Arising Out of PS. Case No.-129 Year-2021 Thana- HUSSAINGANJ District- Siwan

Fahim Miya Son of Tauhid Khan Resident of Village - Pratap Pur, P.S.-
Hussainganj, Distt. - Siwan.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ranjeet Kumar Pandey, Advocate

For the Opposite Party/s : Mr. Raj Ballabh Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 22-08-2022 Heard learned counsel for the petitioner and learned
counsel for the Informant as well as learned Additional Public
Prosecutor for the State.

Let the defects, as pointed out by the office, be
removed within a period of four weeks from today.

Petitioner seeks bail in a case registered for the
offences punishable under Sections 302/34 of the Indian Penal
Code and Section 27 of the Arms Act.

According to prosecution case, on 04.06.2021 when
the informant and his brother Afroj Ansari were walking in front
of his door, in the meantime 5 known and 3 unknown persons
arrived there having pistol and rifle in their hand. It is further
alleged that one Sallu Miyan fired with his pistol on Afroj
Ansari, which hit on the head of Afroj Ansari. It is also alleged
that Fahim Miyan and Mumtaz Miyan fired on the informant but



he saved his life and on way to the hospital, his brother died.

Learned counsel for the petitioner submits that petitioner has clean antecedent and he has falsely been implicated in the present case. He further submits that from bare perusal of F.I.R., it transpired that the co-accused namely Sallu Miya fired upon the deceased and the allegation against the petitioner is concerned that the petitioner and other co-accused namely, Mumtaj Miya fired upon the informant but the informant has not injured. He further submits that the police after investigation submitted the charge sheet against the petitioner. He further submits that similarly situated, co-accused, namely, Md. Javed @ Jawed Khan and Afjal Khan @ Neshar Alam have been granted bail by a co-ordinate Bench of this Court vide order dated 03.08.2022 passed in Cr. Misc. No. 8820 of 2022 and Cr. Misc. No. 9030 of 2022. The petitioner is in custody since 06.06.2021.

The learned counsel for the Informant and learned Additional Public Prosecutor have vehemently opposed the prayer for bail of the petitioner.

Considering the aforesaid facts and circumstances, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of



the like amount each to the satisfaction of the learned Court below where the case is pending in connection with Hussainganj P.S. Case No. 129 of 2021, subject to the following conditions:-

1. Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

2. 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.

3. 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.

(Rajesh Kumar Verma, J)

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