

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.5619 of 2022**

Arising Out of PS. Case No.-203 Year-2021 Thana- BATHNAHA District- Sitamarhi

Alok Kumar Son of Ram Sagar Sah Resident of Village - Bishanpur, P.s.-  
Bathnaha, Distt.- Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

|                          |   |                                  |
|--------------------------|---|----------------------------------|
| For the Petitioner/s     | : | Mr. Amit Narayan, Advocate       |
|                          | : | Mr. Abhijyen Kumar, Advocate     |
| For the Informant/s      | : | Mr. Pramod Kumar Verma, Advocate |
|                          | : | Mr. Devendra Kumar, Advocate     |
| For the Opposite Party/s | : | Mr. Satya Nand Shukla, A.P.P     |

**CORAM: HONOURABLE MR. JUSTICE KHATIM REZA**  
**CAV ORDER**

5      10-08-2022                      Heard learned counsel for the petitioner and learned  
A.P.P. for the State.

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

The petitioner seeks bail in connection with a case  
registered for the offence punishable under Sections 307, 504,  
506 and 34 of the Indian Penal Code and 27 of the Arms Act.

The prosecution case, in short, is that on 09.09.2021  
at 09:00 pm, the informant was sitting in his shop of sand and  
cement then the villager Avinash Das visited his shop and asked  
rates of sand and cement as he required for construction after  
two months. Thereafter at 09:45 pm, the informant while



returning to his house on his motorcycle, When he reached the house of one Jyoti, he saw the said Avinash Das and Mitthu Baitha who stopped him and thereafter Mitthu Baitha went away. In the meantime, on one Apache motorcycle two boys came namely, Alok Kumar (petitioner) and another face-covered person. It is alleged that the petitioner Avinash Das shot at the informant by his countrymade pistol which hit the left side of the chest of the informant. It is further alleged that he had land dispute with his villager Surendra Thakur who was in illegal possession of his land and he had conspired with the accused persons for this occurrence. The said fardebyan has been recorded by S.I. Pankaj Kumar in the I.C.U. ward of hospital of Dr. Varun on 11.08.2021 at 03:50 pm.

Learned counsel for the petitioner submits that petitioner has been arrested by the police from his house and sent for judicial custody on 12.08.2021, charge-sheet has been submitted in this case and has antecedent of four cases. It is further submitted that according to column 11 of the charge-sheet (Annexure-2) on 11.08.2021, the petitioner was arrested by the police. But in fact, the police arrested the petitioner from his house on 09.08.2021 at 23:35 hours and at the same time, the Apache motorcycle was seized on 09.08.2021 seizure list



which is Annexure-3. In this regard a complaint 19.08.2021 was made to Superintendent of Police, Sitamarhi by the father of the petitioner which is at Annexure-4. From perusal of seizure list (Annexure-3), it is stated that reference was made of Bathnaha P.S. Case No. 203 of 2021 dated 21.08.2021 and date of seizure mentioned in the said seizure list dated 09.08.2021 at 23:35 hrs. and place from where the articles were seized was near house of Saheb Mahto.

Learned counsel for the petitioner submits that two days before lodging of the fardebyan the petitioner was arrested. It is submitted that S.I. Pankaj has not been mentioned as a charge-sheet witnesses who recorded the fardbeyan. In the aforesaid charge-sheet, the doctor's name has also not been mentioned as witness who has been claimed to have examined the informant. It is also mentioned that there is no injury report pertaining to this case on record. Further, it is submitted that earlier on the statement of Renu Devi (sister of the petitioner) an F.I.R was lodged bearing Bathnaha P.S. Case No. 91 of 2019 dated 01.04.2019 under Sections 147, 148, 149, 307, 384, 323, 504 and 506 of the Indian Penal Code and 27 of the Arms Act against Chiranjivi Kumar @ Santosh Kumar S/o Devendra Singh and others. It is stated that the said Chiranjivi Kumar @



Santosh Kumar and his father nephew and brother of the informant respectively and they are named in the present fardebyan as the person who reached the place of occurrence immediately. It is further submitted that there is no explanation of delay of two days in filing of F.I.R.

Learned A.P.P. for the State and learned counsel for the informant have vehemently opposed the prayer for regular bail of the petitioner.

Considering the facts and circumstances of this case, the above named petitioner is directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) only with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Sitamarhi in connection with Bathnaha P.S. Case No. 203 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 on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

(2) One of the bailors will be his own blood relation, preferably father, mother, brother, sister and or his wife.

(3) The bailor shall also state on affidavit that he will



inform the court concerned if the petitioner is made accused in any other case of similar nature after his release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of bail on ground of misuse.

(4) 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.

**(Khatim Reza, J)**

Gaurav Kumar/-

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