

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5672 of 2022

Arising Out of PS. Case No.-243 Year-2021 Thana- BARAUNI District- Begusarai

Saurav Kumar, Son of Mukesh Singh, Resident of Village- Bihat, Ward No. 2,
P.S. Barauni, District- Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Advocate Mrs. Vaishnavi Singh, Advocate
For the Opposite Party/s	:	Mr. Satyendra Narayan Singh, APP
For the Informant	:	Mr. Shubhesh Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 04-07-2022 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

Heard learned counsel for the petitioner and learned counsel for the informant as well as learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Barauni (Chakiya) P.S. Case No. 243 of 2021 registered for the offences punishable under Sections 386, 302, 379/34 of the Indian Penal Code and Section 27 of the Arms Act.

As per prosecution case, it is alleged that while the son of the informant was returning to his house and when he reached near Flour Mill of Krishna Murari Kunwar, all the F.I.R.



named accused persons and unknown persons surrounded his son and started abusing. It is further alleged that the informant immediately reached there and asked them why they are abusing, thereupon the accused persons said that co-accused Bhushan Kumar demanded Rs. 25,00,000/- but the same has not been paid. Whereupon one of the co-accused, namely, Bablu Kumar, ordered to shoot the informant's son and on his direction co-accused Mukesh Kumar shot fire on the head of his son, due to which he died. It is also alleged all the accused persons made indiscriminate firing. It is further alleged that this petitioner snatched golden chain from the neck of the deceased.

Learned counsel appearing on behalf of the petitioner submits that there is specific allegation of demand of extortion against Bhushan Kumar and further co-accused Bablu Kumar is said to be the order giver and co-accused Mukesh Kumar fired upon the deceased resulting into the death of the son of the informant. It is next submitted that there is general and omnibus allegation against all the other co-accused persons, except the aforesaid three co-accused persons. It is also submitted that so far the allegation made against the petitioner that he had snatched golden chain from the neck of the deceased, there is no such recovery from the conscious/constructive possession of



this petitioner. It is also submitted that this petitioner is in custody since 16.08.2021 and the investigation of the crime is already completed and the charge sheet has been submitted. It is lastly submitted that similarly situated co-accused persons, namely, Nishant Kumar @ Chotu as well as Sonu Kumar @ Krishna Kumar and Raushan Kumar, have been granted bail by this Court in Cr. Misc. No. 65265 of 2021 and Cr. Misc. No. 48664 of 2021 respectively.

On the other hand learned counsel appearing on behalf of the informant vehemently opposes the bail application and submits that from the post-mortem report, it appears that the deceased had received five bullet injuries and as such the prosecution case appears to be true that indiscriminate firing has been made from all the accused persons, resulting into the death of the deceased. It is next submitted that the petitioner is a habitual offender and he is involved in many other cases, apart from the cases which have been mentioned in paragraph 3 of the bail application i.e. (i) Barauni Rail P.S. case no. 30 of 2016, (ii) Barauni Rail P.S. case no. 89 of 2017, (iii) Barauni Rail P.S. case no. 110 of 2020, (iv) Barauni Rail P.S. case no. 114 of 2020, (v) Barauni Rail P.S. case no. 119 of 2020 and (vi) Barauni (Chakiya) P.S. case no. 289 of 2021.



The learned counsel for the State also opposes the bail application and submits that the case of the petitioner is different to other co-accused persons, who have been granted bail, inasmuch against this petitioner there is allegation of snatching golden chain from the neck of the deceased, apart from the other allegations.

Having considered the submissions made on behalf of the parties and taking into consideration the fact that specific allegation of demand of extortion has been levelled against Bhushan Kumar and so far the allegation of firing is concerned, the same has been attributed against Mukesh Kumar, who fired over the head of the deceased causing his death and with regard to other accused persons, general and omnibus allegation has been levelled. This Court also takes note of the fact that the other accused persons, having more or less similar allegations, have been granted bail by a coordinate Bench of this Court and moreover this petitioner is in custody since 16.08.2021, though the investigation of the crime is already completed, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Begusarai in connection with Barauni



(Chakiya) P.S. Case No. 243 of 2021, subject to the condition that one of the bailors will be the local residents with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) 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 immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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