

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2740 of 2022

Arising Out of PS. Case No.-244 Year-2021 Thana- BIDUPUR District- Vaishali

Chhotu Kumar @ Kumar Siraj, Son Of Subhash Singh, R/O Village- Khilwat,
P.S.- Bidupur, District- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 9104 of 2022

Arising Out of PS. Case No.-244 Year-2021 Thana- BIDUPUR District- Vaishali

Sameer Kumar @ Raja Yadav, Son of Subhash Singh, Resident of Village-
Khilwat, P.S.- Bidupur, District- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 2740 of 2022)

For the Petitioner/s : Mr.Mukesh Kumar, Advocate

For the State : Dr. Indiwari Kumari, APP

For the Informant : Mr. Jogendra Kumar, Advocate

(In CRIMINAL MISCELLANEOUS No. 9104 of 2022)

For the Petitioner/s : Mr.Shivjee Singh, Advocate

Mr.Mukesh Kumar, Advocate

For the Opposite Party/s : Dr. Ajeet Kumar, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 01-11-2022 Since both the applications arise out of Bidupur P.S.

Case No. 244 of 2021, as such, they have been taken up together

and are being disposed of by this common order.

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

Let the defect (s), as pointed out by the office, be



removed within a period of four weeks.

In the present case, the petitioners seek bail in connection with Bidupur P.S. Case No. 244 of 2021 registered for the alleged offences under Sections 147, 148, 149, 341, 323, 385 and 302 of the Indian Penal Code and Section 27 of the Arms Act.

As per prosecution case, the petitioner Samir Kumar @ Raja Yadav had been demanding Rs. 1,00,000/- as extortion money from the owner of the company of the brother of the informant who had been working as a clerk in the said company. Further allegation against the petitioners is that they along with other co-accused persons surrounded the informant and his brother and three vehicles carrying earthen soil and the petitioner Samir Kumar shot dead the brother of the informant.

The learned counsel for the petitioners submits that the petitioners are innocent and have been falsely implicated in this case. For the same occurrence, another case has been registered by the police on its own bearing Bidupur P.S. Case No. 245 of 2021 in which it has been mentioned that a fight took place between the two groups and both the groups resorted to firing and one person received firearm injury. It has also been mentioned that the petitioners and other co-accused persons, in



the background of demand of extortion for carrying of soil, have caused the occurrence. Learned counsel further submits that from the FIR, it is clear that there is no specific allegation against the petitioner Chhotu Kumar @ Kumar Siraj and specific allegation of firing is against petitioner Sameer Kumar @ Raja Yadav. During investigation nothing has come on record to show that any extortion money was demanded from the company and the work of loading of soil was stopped. Learned counsel further submits that the case is at the stage of prosecution evidence. Petitioners are in custody since 02.09.2021.

Learned APP as well as learned counsel appearing on behalf of the informant vehemently oppose the prayer for bail. Learned counsel for the informant submits that there is specific allegation against the petitioners and witnesses examined during investigation have supported the prosecution case and have stated that both the petitioners opened fire and post-mortem report shows multiple firearm injuries on the deceased. Learned counsel further submits that the evidence of prosecution has been closed and statement of accused persons have been recorded and the matter has been coming up for the evidence of defence. Learned counsel further submits that the petitioner



Sameer Kumar @ Raja Yadav is having long criminal history and is accused in a number of cases of serious nature.

Perused the records.

Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the specific nature of allegation against the petitioner **Sameer Kumar** for causing the fatal injury to the brother of the informant, I am not inclined to grant bail to the petitioner **Sameer Kumar @ Raja Yadav**. Hence, the prayer for bail is rejected.

However, considering the fact that there is no specific allegation against the petitioner Chhotu Kumar in the FIR and also in the statement of witnesses recorded in paragraphs 17, 18, 19 and 20 of the case diary, the petitioner **Chhotu Kumar @ Kumar Siraj** is directed to be released on bail on furnishing bail bonds of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Vaishali at Hajipur in connection with Bidupur P.S. Case No. 244 of 2021, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions :

- (i) The bail bond of the petitioner **Chhotu**



Kumar @ Kumar Siraj will be accepted only after framing of charge, if not already framed.

(ii) One of the bailors will be a close relative of the petitioner **Chhotu Kumar @ Kumar Siraj**.

(iii) The petitioner **Chhotu Kumar @ Kumar Siraj** will remain present on each and every date fixed by the court below.

(iv) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bonds of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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