

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9345 of 2022

Arising Out of PS. Case No.-411 Year-2021 Thana- BEGUSARAI TOWN District- Begusarai

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VAIBHAV KUMAR @ BAIBHAV ARYA S/o Sanjeev Kumar Singh @ Puttu
Singh R/o- Village- Badalpura, P.S.- Matihani, Dist- Begusarai.

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	: Mr.Shubhesh Pandey
For the Informant	: Mr. Surendra Kishore Thakur
For the Opposite Party/s	: Mr.Rajendra Nath Jha

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 07-07-2022 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

Begusarai Town P.S. Case No. 411 of 2021 registered for the

offences punishable under Sections 341, 307, 302, 504,

506/120(B)/34 of the Indian Penal Code read with Section 27 of

the Arms Act.

As per prosecution case, it is specifically stated by

the informant that he has passed the matriculation examination

in 2018 and he felt in love with Aditya Soni and they use to

meet regularly. Meanwhile it has come to the knowledge of



informant that Aditya Soni has come closer to one Vivek Kumar (co-accused) of village Badalpura after getting this confirmation the informant broke his relation from Aditya Soni and started coming closer to his earlier girlfriend Aishwariya. It is alleged that he made a call to co-accused Vivek Kumar and asked as to why he used to call his girlfriend Aishwarya. Upon the same the co-accused Vivek threatened to the lesson and it is alleged that Vivek made a call on the mobile phone of informant asking him to come at Mussoorie School and on hearing the informant along with his friends namely Ankit Kumar, Sahil Kumar, Raja Kumar, Gulshan Kumar, Ayush Kumar arrived there on foot near Mussoorie School. As soon as they arrived near Mussoorie School Vivek Kumar, Jayant Kumar, Ankit Kumar alias Bittu and 4-5 other unknown miscreants who were there have started indiscriminate firing over the informant and other friends. As soon as the informant could understand the situation he sustained firearm injury under the right side of the chest. It is alleged that co-accused Bittu fired gun, co-accused Vivek Kumar fired country made pistol on Ankit Kumar and Raja Kumar has sustained injury of the bullet fired by Jayant Kumar. Informant ran away towards the hospital where treatment was going on. It has further stated by the informant that Ankit



Kumar died on spot and treatment of Raja Kumar is also going on in the hospital.

Learned counsel for the petitioner submits that petitioner is in custody since 18.07.2021. Petitioner bears no criminal antecedent prior to this occurrence except one case of Town P.S. Case No. 439 of 2021 on the basis of confessional statement of same accused i.e. Vivek Kumar. Charge sheet has already been submitted in the case and there is no likelihood of tampering the prosecution evidence. Learned counsel further submits that the petitioner has submitted that the petitioner is not named in the F.I.R. His name has been sprang up upon the confessional statement of co-accused Vivek Kumar. There is no specific allegation whatsoever has been found in the instant F.I.R. and nothing has been recovered from the possession of the present petitioner except the bare confession of the co-accused Vivek Kumar. Petitioner is co-villager of co-accused Vivek Kumar and has got no good relation with them as such the name of petitioner has been given by co-accused in confessional statement. Absolutely there is no material evidence against the petitioner in the entire facts and records of the case. Learned counsel further submits that the police has recorded the statement of this petitioner after arresting and this petitioner has



shown his innocence disclosing the fact that he is working as Data Entry Operator on daily wages in the Income Tax Department and further on the relevant date and time he has shown his presence at the House of the officials of the Income Tax Department at Maranchi under Patna District and the police has verified the statement through the tower location and CDR of the mobile phone of the petitioner, the same has corroborated the statement of the petitioner.

Learned counsel for the informant submits that by the location of mobile tower the presence of present petitioner is found near about place of occurrence on the basis of CDR.

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, nature of allegation, charge-sheet has already been submitted, he is not named in the F.I.R. argument advanced on behalf of the parties and also taking into consideration the material available on record, let the petitioner above named be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned C.J.M., Begusarai in connection with Begusarai Town P.S. Case No. 411 of 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 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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