

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12796 of 2022

Arising Out of PS. Case No.-129 Year-2021 Thana- BANGAWON District- Saharsa

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HARIOM KUMAR @ NANHKU Son of Brahmdeo Mahato Resident of
Village - Murli Basantpur, P.s.- Bangaon, Distt.- Saharsa.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Bimlesh Kumar Pandey

For the Opposite Party/s : Mr.Ram Naresh Ray

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 10-05-2022 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

Let the defects, as pointed out by the office, be removed within four weeks of start of normal functioning of the physical court.

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 the basis of fardbeyan of the informant namely Vivek Kumar is that on 01.10.2021 stating therein that on the same day, informant's elder brother namely Uday Kumar and Mithu Kumar were at "Kachahri Dhala", Saharsa then Hariom Kumar called Uday Kumar on his mobile and told to come near Saharsa Jila School.



It is further stated that, after call, informant's elder brother Uday Kumar and Mithu Kumar went near Saharsa School by E-rikshaw. It is stated that, Hariom Kumar told that his uncle namely Dada Mahato has won the election and has been elected "Mukhiya" and as such he invited them to go to village Murli Basantpur to participate in victory procession. Thereafter, the informant's elder brother Uday Kumar (deceased), Mithu Kumar and Manojir Alam, having participated in the victory procession, reached village Murli Basantpur at the house of Manju Devi W/o Krishna Kumar @ Dadan Mahato. It is further stated that petitioner Hariom Kumar and Prabhakar Kumar besides 4-5 persons took Uday Kumar, Mithu Kumar and Manojir Alam from the house of Dadan Mahato towards the road and started abusing and Prabhakar Kumar having picked up pistol from his waist shot fire at the chest of Uday Kumar. The information regarding the occurrence was communicated by Mithu Kumar telephonically to the informant and the informant having reached the place of occurrence saw his brother injured and took him to the Sadar Hospital Saharsa with the help of the villagers where the doctor declared him to be dead.

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 it appears from the F.I.R. that the allegation of firing is against the co-accused namely, Prabhakar Kumar. He further submits that in fact the petitioner is the friend of the deceased and during investigation nothing has come against the petitioner and only on the basis of suspicion the name of the petitioner has falsely been implicated in the present case. He further submits that the police after investigation submitted the charge sheet against the petitioner. The petitioner is in custody since 03.10.2021.

The learned A.P.P. has 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 Bangaon 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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