

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.35444 of 2021**

Arising Out of PS. Case No.-37 Year-2019 Thana- ALOULI District- Khagaria

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Saheb Choudhary @ Baijnath Choudhary Son of late Umesh Choudhary  
Resident of Village - Sumbhagazi Ghat, P.S.- Alauli, Distt.- Khagaria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Najmul Hodda, Advocate

For the Opposite Party/s : Mr. APP

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**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA**  
**ORAL ORDER**

3      03-01-2022                      Heard learned counsel for the petitioner and learned  
A.P.P. for the State.

Learned counsel for the petitioner submits that this is the second attempt of the petitioner for seeking bail in connection with Alauli P.S. Case No. 37 of 2019 instituted for the offences under Sections 147, 148, 149 and 302 of the Indian Penal Code read with Section 27 of the Arms Act, as earlier by order dated 12.11.2020 in Cr. Misc. No. 9178 of 2020 the bail application of this petitioner was rejected.

Learned counsel for the petitioner submits that from perusal of the order dated 12.11.2020 it appears that what weighed with the Hon'ble Court while rejecting the bail application was the submission made by the learned counsel for the State and the informant that the trial is near completion and



only doctor and the I.O. remain to be examined. Learned counsel further submits that the order dated 12.11.2020 also records the submission of the learned counsel for the petitioner who had appeared in the said case wherein it was submitted that “the police reached the place of occurrence but the *ferdbeyan* has been recorded in the hospital and also submitted that there are two different types of story during the course of investigation and the injury does not corroborate the prosecution. He has further submitted that that police has not found blood stain at the place of occurrence. If a person has been caused bullet injury, certain amount of blood would be there”.

Learned counsel for the petitioner submits that loopholes in the prosecution story were pleaded before the court but since it was submitted that trial is near completion and all the witnesses who have been examined are consistent in their statement with regard to the prosecution case as such the bail application was rejected. It is further submitted that by order dated 03.12.2021, the stage of the of trial was called for. The report has been received and from perusal of which it appears that out of eleven witnesses, only two witnesses have been examined and nine witnesses are yet to be examined as such the



statement made by the learned counsel for the informant and the State on the earlier occasion that the trial is near completion and all the witnesses are consistent in their statement regarding the occurrence stands belied.

Learned counsel for the petitioner submits that the petitioner is in custody since 18.11.2019 and his bail application was rejected based on an incorrect submission made as recorded in the order dated 12.11.2020 when the petitioner was able to make out a case for bail in the earlier proceeding as no blood stain was found from the place of occurrence. Learned counsel for the petitioner further submits that the wife of the deceased and the deceased had instituted four cases against the petitioner as is mentioned in paragraph '3' of the petition and since dispute was going on between the parties as such no prudent man would have committed the occurrence and thus would have got himself identified and implicated in the case. Learned counsel submits that the bail application of the petitioner was rejected earlier merely on the ground that the Court was persuaded by the submission that the trial is near completion when the fact was otherwise.

Considering the fact that the petitioner is in custody since 18.11.2019, charge-sheet has been submitted in the case



and the antecedent as mentioned in paragraph '3' are cases between the informant and the petitioner and nine witnesses are to be examined yet, let the petitioner above named be released on bail on furnishing bail bond of Rs. 20,000/- (Rupees Twenty Thousand only) with two sureties of the like amount each to the satisfaction of learned Sessions Judge-III, Khagaria in connection with Alauli P.S. Case No. 37 of 2019.

**(Satyavrat Verma, J)**

Rishi/-

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