

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31044 of 2022

Arising Out of PS. Case No.-873 Year-2020 Thana- SUPAUL District- Supaul

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Pramod Das Son Of Satyadev Das @ Santo Das Resident Of Village -
Kahara, P.S.- And Distt.- Saharsa.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashok, Advocate.

For the Opposite Party/s : Mr. Vinod Shanker Modi, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 20-09-2022 Learned counsel for the petitioner is permitted to
remove defect(s), as pointed out by the office, if any, within a
period of four weeks from today.

Heard Mr. Ashok, learned counsel for the petitioner as
well as learned Additional Public Prosecutor for the State.

The application for grant of bail to the petitioner,
above named, who has been made accused and put behind the
bar in connection with Supaul P. S. Case No. 873 of 2020 giving
rise to Sessions Trial No. 315 of 2021 registered for the offences
punishable under Sections 302 read with 34 of the Indian Penal
Code and Section 27 of the Arms Act.

The prosecution case is based on *fardbayan* of the
informant, who alleged that while he was sitting along with his
son, in the meantime, his neighbours Siyaram Yadav, Vidyanand



Yadav, Shambhu Yadav and Raj Kumar Yadav variously armed came there and started indiscriminate firing upon his son due to which he received gun shot injuries. It is further alleged that his son told to him, his wife, son and other neighbours that all the three sons of the Siyaram Yadav shot him.

Learned counsel appearing on behalf of the petitioner submitted that petitioner is not named in the FIR., however, during the course of investigation, the name of the petitioner surfaced on the confessional statement of co-accused and save and except the confessional statement, there is no other material suggesting the complicity of the petitioner in the present crime. It is also submitted that from the tenor of the FIR, it is evident that the informant, all the family members and neighbours are claiming themselves to be eye-witnesses to the alleged occurrence and they have categorically stated the name of the assailants, who fired upon the son of the informant causing his death. It is further submitted that in fact, while the petitioner was in custody in connection with Saharsa P. S. Case No. 23 of 2021, he was remanded in the present case on 23.06.2021 and since then he is in custody. It is last submitted that only because of the past criminal antecedent of the petitioner, his name has been implicated in this case, which



shows highhandedness of the police.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that the petitioner is found involved in nine other criminal cases of serious nature.

Regard being had to the submissions made on behalf of the parties and taking into account the fact that save and except of confessional statement of the co-accused, there is no other material against the petitioner and moreover, criminal antecedent of a person cannot be a sole ground for keeping him behind the bar for an indefinite period, apart from the fact that the one of the co-accused persons, namely, Gajendra Pandit, who is having identical allegation, has already being granted bail by this Hon'ble Court in Cr. Misc. No. 24755 of 2022, vide order dated 16.08.2022, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-1st-cum-Special Judge, Supaul in connection with Supaul P. S. Case No. 873 of 2020 giving rise to Sessions Trial No. 315 of 2021, subject to the condition that one of the bailors will be the close relative of the petitioner 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 step for cancelling 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.

(Harish Kumar, J)

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