

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31601 of 2022

Arising Out of PS. Case No.-167 Year-2020 Thana- LAKHISARAI District- Lakhisarai

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Ranjeet Singh @ Ranjeet Kumar @ Baudha Singh @ Baudha, S/o Late
Ramdas Singh, Resident of Village- Walipur, P.s.- Pipariya, District-
Lakhisarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Abhay Shankar Singh, Adv.
For the Informant	:	Mr. Shubhesh Pandey, Adv.
For the State	:	Mr. Ram Priya Sharan Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

4 02-11-2022 Heard Mr. Abhay Shankar Singh, the learned

Advocate for the petitioner and Mr. Shubhesh Pandey,

the learned Advocate for the informant.

The State is represented by Mr. Ram Priya

Sharan Singh, the learned APP.

The petitioner seeks bail in connection with

Lakhisarai P.S. Case No. 167 of 2020, dated



11.03.2020, instituted for the offences under Sections 302, 120-B and 34 of the Indian Penal Code and Sections 25(1-b)a, 26(i) and 27 of the Arms Act, 1959.

The petitioner is said to be in custody since 19.06.2020 and despite commitment of the case, even the charges have not been framed.

Mr. Shubhesh Pandey, the learned counsel for the informant submits that because some of the accused persons have not surrendered to the process of law, charges have not been framed.

This is no explanation for not framing of charge against a person who has remained in custody during the period of investigation for about two years. Nonetheless, on perusal of the case records, it appears that the petitioner and two others are said to have opened fire indiscriminately, leading to the death of the father of the informant.

The petitioner claims false implication on several grounds; few of them being that he is a person



of clean antecedent, whereas the deceased has many cases to his credit; during the course of investigation, a co-accused, namely, Rahul Kumar, has made an inculpatory confession naming others and not the petitioner; and persons who were alleged to be in waiting in a vehicle while the act was being committed, have been granted bail.

It has thus been urged on behalf of the petitioner that even with respect to the correctness of the prosecution version, there is a yawning gap and evidence also has come through the mouth of some of the witnesses that one Gautam and Sapan were the assailants.

As opposed to the aforesaid contention, Mr. Shubhesh Pandey, the learned Advocate for the informant has intimated this Court that keeping in mind the severity and the nature of accusation against the petitioner, his bail was earlier rejected by this Court *vide* orders dated 26.05.2021 and 16.02.2022 respectively.



It has further been submitted that the petitioner is the first accused named in the F.I.R., who had come to the scene of occurrence and had resorted to firing, leading to one death. Any statement by a co-accused blaming others for the death of the father of the informant, ought not to come to the avail of the petitioner when investigation does not reveal the innocence of the petitioner. It has also been submitted that if at all there has been any delay in the investigation and framing of charge, the Court below would be profitably directed by this Court to separate the case of the petitioner from that of the others who have yet not surrendered to the process of law and continue with day-to-day hearing of the case, in which the informant shall promptly cooperate. He also raises an apprehension that with the release of the petitioner on bail, fear psychosis would grip the witnesses, who might not depose against him at the trial, leading to miscarriage of justice.

After having heard the learned counsel for the



parties, this Court finds that though the petitioner has been named in the F.I.R. as one of the three persons who had opened fire, leading to death of the lone deceased, but there is no specificity in the accusation. In the F.I.R., it has been narrated that some more persons were waiting in the wings, all of whom have been granted bail. There can be no justification for not framing the charge when a person remains in custody for two years. Not taking the period of custody of the petitioner in the instant case seriously, would tantamount to giving a short shrift to the rights of an accused of speedy trial before the accusation against him is confirmed in the trial.

The fact that the petitioner does not have criminal antecedents completely belies to the correctness of the argument of the informant that with the release of the petitioner, the witnesses would be scared to go before the Trial Court to depose against him. Such atavistic fears of the informant cannot be the basis for



rejecting the prayer for bail after a person has remained in custody for two years.

Any other opinion now of the Bench would be against the dictum of "bail not jail".

The petitioner is in custody since 19.06.2020.

Regard being had to the period of custody of the petitioner and there being no likelihood of the trial being concluded in near future, this Court is inclined to grant him bail, subject to certain conditions which would ensure that the petitioner participates in the trial and does not attempt at tampering with the evidence or scaring away the witnesses.

The petitioner is directed to be released on bail on his furnishing bail-bonds in the sum of Rs. 20,000/- (Rupees Twenty Thousand) with two sureties, out of which one shall be his wife, of the like amount each to the satisfaction of learned 1st Additional District and Sessions Judge-Cum-Special Judge, Lakhisarai in connection with Lakhisarai P.S. Case No. 167 of 2020.



While furnishing his bail-bonds, the petitioner shall provide his and his wife's mobile telephone numbers which shall be kept in operative condition till the conclusion of the trial. The petitioner shall, after his release, get his presence marked weekly before the Officer-in-Charge of the concerned police station where he will visit at 11:00 A.M. on every Tuesday. The Officer-in-Charge of the concerned police station is directed not to make him wait in the police station unnecessarily and promptly mark his presence. The petitioner shall not leave the territorial confines of the district where the trial shall be conducted without the prior leave of the Court and intimation to the concerned Officer-in-Charge in that regard. Should such movement of the petitioner be allowed by the Court, the petitioner would furnish the address of the place where he would stay. Any attempt of the petitioner to tamper with the evidence in any manner whatsoever, either by crossing roads with the informant or any other member of his



family or threatening witnesses, would render his bail liable to be cancelled. In that event, with cogent evidence in that regard, the informant or the State prosecution would be perfectly within their rights to move the Court below for cancellation of the bail of the petitioner.

The application stands allowed.

(Ashutosh Kumar, J)

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