

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41811 of 2021**

Arising Out of PS. Case No.-239 Year-2020 Thana- RAHUI District- Nalanda

SUNIL PRASAD Son of Late Ram Babu Prasad Resident of Village - Saidali,
P.S.- Rahui, District -- Nalanda

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Vaishnavi Singh, Adv.
For the Opposite Party/s	:	Mr.Md. Nazir Ansari, APP
For the informant	:	Mr. Prashant Sinha, Adv.

**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER**

2 04-01-2022 The instant case has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.

Heard the learned counsel for the petitioner and the learned APP for the State.

The petitioner seeks regular bail in connection with Rahui PS case no. 239 of 2020 instituted for the offences punishable under Sections 302 and other allied sections of Indian Penal Code and 27 of Arms Act.

The case of the prosecution in brief is that 12 persons named in the FIR including the petitioner herein had reached at the door of the house of the cousin brother of the informant, whereafter the accused persons had started abusing the



cousin brother of the informant, however, the accused persons had fled away, upon being confronted by the family members. It is further alleged that the said accused persons including the petitioner herein had then arrived at the door of the house of another brother of the informant and had started abusing the brother of the informant, whereafter, upon being exhorted by the co-accused person namely Sunil Prasad (petitioner herein), one co-accused person namely Dayanand Yadav had fired gun shots on the head of his own brother namely Santosh Kumar, resulting in his subsequent death.

The learned counsel for the petitioner has submitted that the petitioner is innocent, has been falsely implicated in the present case, is having a clean antecedent and is languishing in custody since 01.04.2021. The learned counsel for the petitioner has further submitted that the only allegation levelled against the petitioner is of giving an order to a co-accused person, upon which the said co-accused person namely Dayanand Yadav is stated to have fired gun shots on the head of his own brother namely Santosh Kumar, resulting in him being inflicted with injuries which had resulted in his subsequent death. It is next submitted that the petitioner has not been alleged to have engaged in any sort of overt act. Lastly, it is submitted that some of the similarly situated co-accused persons have already been granted



bail by a co-ordinate Bench of this Court vide order dated 25.03.2021, passed in Cr. Misc. no. 553 of 2021.

Per contra, the learned A.P.P. for the State has vehemently opposed the prayer for bail.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the parties and taking into account the materials available on record as also considering the parity of the case of the petitioner with that of the co-accused persons who have already been granted bail by a co-ordinate Bench of this Court, apart from the fact that there is no allegation of the petitioner having engaged in any sort of overt act and he is stated to be having a clean antecedent, I deem it fit and proper to admit the petitioner to the privilege of bail. Accordingly, the abovenamed petitioner is directed to be released on bail on furnishing bail bond of Rs. 10,000/- (Rs. Ten thousand) with two sureties of the like amount each to the satisfaction of learned court of Additional Chief Judicial Magistrate II, Nalanda at Biharsharif in connection with Rahui PS case no. 239 of 2020.

(Mohit Kumar Shah, J)

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