

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46535 of 2021

Arising Out of PS. Case No.-152 Year-2020 Thana- SHANKARPUR District- Madhepura

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MUKESH KUMAR S/O Somi Yadav R/o village- Harihara, P.S. and P.O.-
Shankarpur, Distt.- Madhepura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Shashi Bhushan Kumar, Advocate.

For the Opposite Party/s : Mr.Md. Matloob Rab, APP.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL ORDER

2 16-02-2022 Heard the parties through video conferencing.

Heard learned counsel appearing on behalf of the
petitioner and learned A.P.P. for the State.

Let the defect(s), if any, be removed within two
weeks of the complete start of the physical Court in normal
course.

The petitioner, who is in custody since 11.12.2020,
seeks regular bail in connection with Shankarpur P.S. Case No.
152 of 2020 for the offence punishable under Section 302/34 of
the Indian Penal Code and Section 27 of the Arms Act.

The allegation is of commission of murder of the
father of the informant by the several accused persons named in



the F.I.R. including the petitioner when the father of the informant had gone to market to purchase medicine along with his son (informant) and younger brother.

Learned counsel appearing on behalf of the petitioner submits that the petitioner is innocent and he has falsely been implicated in this case. He further submits that there is general and omnibus allegation that altogether 10 named and six unnamed accused assaulted the father of the informant Ram Kumar. It is difficult to ascertain that who had resorted to firing upon the father of the informant. There is no specific allegation of firing having been committed by the petitioner. There is no eye witness of the occurrence. No overt act is alleged against the petitioner. The name of the petitioner has surfaced in this case on the basis of confessional statement of co-accused Vivek Kumar which has no evidentiary value in the eye of law. The informant who is the son of the deceased had reached the place of occurrence after hearing the firing sound. Petitioner is a student having no criminal antecedent and is in custody since 11.12.2020.

Learned A.P.P. for the State has opposed the prayer for grant of bail to the petitioner.

Considering the aforementioned facts and



circumstances of the case, there is no specific allegation of firing against the petitioner rather allegation is general and omnibus, name of the petitioner has surfaced in the confessional statement of co-accused due to enmity, petitioner has clean antecedent and he is in custody since 11.12.2020, there is no allegation of tampering with the evidence or influencing the witnesses and there is no chance of completion of trial soon due to COVID-19, prima facie the petitioner has made out a case to be released on bail, the petitioner, above named, is directed to be enlarged on bail on furnishing bail bond of Rs.25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned ACJM-I, Madhepura in connection with Shankarpur P.S. Case No. 152 of 2020, subject to the following conditions:-

(1) Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

(2) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.

(3) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.



(4) If the petitioner is found involved in similar nature of offence, after his release on bail, the trial Court shall take steps to cancel his bail bonds.

(Purnendu Singh, J)

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