

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41917 of 2022

Arising Out of PS. Case No.-237 Year-2022 Thana- FATUA District- Patna

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Pankaj Kumar Son of Sunil Yadav Resident of Village - Budhuchak, P.s.-
Fatuha, Distt.- Patna.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Ajit Kumar Ojha, Advocate
		Mr. Nutan Mishra, Advocate
		Mr. Akhilesh Kumar, Advocate
		Mr. Arya Vashist, Advocate
For the Opposite Party/s :		Mr. Suresh Prasad Singh, APP

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 17-11-2022 The learned counsel for the petitioner is directed to

remove all the defects pointed out by the Stamp Reporter within

one month.

Heard learned counsel for the petitioner and the

learned APP for the State.

Petitioner seeks regular bail in connection with Fatuha

P.S. Case No. 237 of 2022 registered for the offences punishable

under Sections 341, 323, 325, 307, 302, 506 and 34 of the

Indian Penal Code and Section 27 of the Arms Act.

As per the prosecution, the informant was assaulted

and threatened by two co-accused persons and thereafter

petitioner and co-accused came one co-accused namely Vikas



Kumar shot the informant's mother dead and fled away. Further it is alleged that there was a dispute between both the parties.

The main submissions advanced by the learned counsel Mr. Ajit Kumar Ojha for the petitioner are that the petitioner is a student and has passed Bachelor in Arts (Graduation) with First Division and in this regard his certification has been filed as Annexure-3 and he has been languishing in jail since 25.03.2022, in fact the alleged occurrence relates to free fight and both the sides lodged cases against each other and the present matter is counterblast of Fatuha P.S. Case No. 238 of 2022 lodged by petitioner himself under Sections 341, 323, 325, 504, 506 and 34 of the Indian Penal Code and during the occurrence of free fight the informant who was having fire-arm, opened the said fire-arm which accidentally hit his mother and consequently informant's mother died and thereafter the instant matter was fabricated. Further submission is that the petitioner is only alleged to be a member of unlawfully assembly with other co-accused persons, but against him there is no specific allegation and he has clean antecedent.

Learned APP Mr. Suresh Prasad Singh appearing for the State as well as learned counsel appearing for the informant



has vehemently opposed the bail prayer and submitted that the instant matter relates to murder and the petitioner was present at the alleged place with other co-accused persons equipped with fire-arms in the alleged occurrence and against him there is serious allegation.

Heard both the sides and perused the FIR. The petitioner is stated to be a student and he has passed his graduation examination as per above submission, he has clean antecedent, as per prosecution's story there are two parts of the FIR, in the first part the accused persons threatened and assaulted the informant and his mother but in that occurrence of threatening the petitioner was not a party and as per the second part of the FIR the accused persons equipped with the fire-arms and one of the co-accused persons named Vikash Kumar fired at the mother of the informant from a close range and consequently informant's mother died on the spot and in the said occurrence the petitioner was alleged to be present along with co-accused persons, but any specific role of the petitioner in the alleged crime has not been revealed in the FIR and he is simply stated to be present along with other co-accused persons. Considering the nature of allegation appearing against the petitioner and his clean antecedent and also taking into account



his academic carrier, in the opinion of this Court a lenient approach can be taken in respect of the petitioner's prayer, let the petitioner be released on bail on furnishing bail bond of Rs.10,000/-(Ten Thousand) with two sureties of the like amount each to the satisfaction of the concerned Court in connection with Fatuha P.S. Case No. 237 of 2022, on the following conditions:-

(1) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court below and shall remain physically present as directed by the Court below and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

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

(3) One of the bailers shall be a close relative of the petitioner who has sworn affidavit in this miscellaneous petition.

(4) The Court below will verify the criminal antecedent of the petitioner but acceptance of bail bond will not be delayed on account of process of verification of the said criminal antecedent. If any criminal antecedent of the petitioner



is found then the Court below shall take strict action against him
for cancellation of his bail bond.

(Shailendra Singh, J.)

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