

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52915 of 2021

Arising Out of PS. Case No.-296 Year-2021 Thana- TURKAULIYA District- East
Champaran

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Rahul Kumar Son Of Brij Kishore Singh R/O Village- School Chowk
Turkauliya, P.S.- Turkauliya, Dist.- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Dilip Kumar Tandon, Advocate.
For the State	:	Mr. Shakti Suman Kumar, APP.
For the Informant	:	Mr. Atul Shankar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

4 **17-05-2022** 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. Dilip Kumar Tandon, learned counsel for the petitioner, Mr. Atul Shankar, learned counsel for the informant and learned Additional Public Prosecutor for the State.

The application for grant of regular bail to the petitioner, above named, who has been made accused and put behind the bar in connection with Sessions Trial No. 368 of 2021 arising out of Turkauliya P. S. Case No. 296 of 2021 registered for the offences punishable under Sections 504, 341,



506, 302 read with 34 of the Indian Penal Code and Section 27 of the Arms Act.

As per the prosecution case, it is alleged that on 07.04.2021, while the informant along with his family members were sitting at the door of his house, then all the F.I.R. named accused persons variously armed, came behind the door of the informant and started abusing. On protest by the informant, accused Brajkishore Singh and Rahul Kumar (the petitioner) caught his brother Vivek Kumar and the accused Brajkishore Singh told to other co-accused persons to shoot him, upon which accused Golu Kumar fired a gunshot on the chest of Vivek Kumar, due to which brother of the informant fell down and succumbed to his injuries.

Learned counsel appearing on behalf of the petitioner submits that there is specific allegation of firing against Golu Kumar. So far as this petitioner is concerned, there is no specific allegation of any overt act, except this petitioner caught hold of the deceased. It is further submitted that the petitioner and informant are admittedly *pattidars* and there is land dispute between the parties and moreover, even the father and the mother of the deceased did not support the fact that the deceased was caught hold of by the petitioner, when the



assailant Golu Kumar fired on the deceased. It is next submitted that this petitioner having clean antecedent and is in custody since 08.04.2021.

On the other hand, learned counsel for the informant vehemently opposes the bail application and submits that all the accused persons had common intention to kill the deceased and this petitioner has taken active participation. It is fairly submitted that the trial of this petitioner is going on and it is at the advance stage and out of eight charge-sheeted witnesses, five witnesses have already been examined.

Learned APP for the State also opposes the bail application.

Having considered the submissions made on behalf of the parties and taking into account the fact that there is specific allegation against the accused, namely, Golu Kumar and even during the course of the investigation, it has not come that this petitioner has actively participated in the alleged crime and further, this petitioner having clean antecedent and is in custody since 08.04.2021 and moreover, out of eight charge-sheeted witnesses, all the private witnesses have already been examined by the learned trial court, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 10,000/-



(Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Motihari, East Champaran in connection with Sessions Trial No. 368 of 2021 arising out of Turkauliya P. S. Case No. 296 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.

(Harish Kumar, J)

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