

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43248 of 2022

Arising Out of PS. Case No.-10 Year-2021 Thana- BARHARA KOTHI District- Purnia

MD. NIZAM SON OF MD. RAHMAN RESIDENT OF MOUZAMPATTI,
BELA PAEMU, P.S.- BARHARA KOTHI (RAGHUWANSH NAGAR O.P.),
DISTRICT- PURNEA, PIN CODE- 854203

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajnish Kumar Singh

For the Opposite Party/s : Mr.Shyameshwar Dayal

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 22-11-2022 Let the defect(s), as pointed out by the office, be removed within a period of four weeks from today.

Heard learned counsel for the petitioner and learned A.P.P. for the State.

The petitioner seeks bail in connection with Barhara Kothi Raghuwansh Nagar (O.P.) P.S. Case No. 10 of 2021 registered for the offences punishable under Sections 147, 148, 149, 341, 342, 323, 307, 302 and 120(B) of the Indian Penal and Section 27 of the Arms Act.

As per prosecution case, petitioner alongwith other co-accused persons armed with deadly weapons surrounded the informant and others. It is alleged that co-accused Nityanand Yadav, Akhilesh Yadav and Bhushan Yadav fired upon the informant's husband and on account of which he died at the place



of occurrence.

Learned counsel for the petitioner submits that petitioner is in custody since 28.04.2022. Petitioner bears criminal antecedent of one case. Charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence. Co-accused Nityanand Yadav, Mithilesh Kumar @ Mithilesh Kumar Yadav, Pinkesh Kumar @ Pinkesh Yadav, Akhilesh Yadav @ Akhilesh Kumar Yadav, Bhushan Yadav on similar allegation have already been granted bail vide Cr. Misc. No. 15071 of 2022, 44759 of 2021, 47512 of 2021, 67627 of 2021 and 5014 of 2022 respectively by co-ordinate bench of this court and the case of present petitioner stands on similar footing. He further submits that from the perusal of the FIR, petitioner is mere member of mob and no specific overt act has been levelled against the petitioner.

The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner.

Considering the facts and circumstances of the case, period of custody, co-accused persons have already been granted bail by co-ordinate bench of this court, charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence, as submitted, argument advanced on behalf of both sides and also taking into consideration the material



available on record, let the petitioner above named be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned 3rd, Additional District Judge, Purnea in connection with Barhara Kothi Raghuwansh Nagar (O.P.) P.S. Case No. 10 of 2021, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

(iii) 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.

(Alok Kumar Pandey, J)

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