

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45715 of 2022

Arising Out of PS. Case No.-107 Year-2021 Thana- SHANKARPUR District- Madhepura

BHAWESH KUMAR @ ABHISHEK KUMAR @ BHAWESH SON OF
BIJENDRA YADAV @ VIJENDRA YADAV R/O VILLAGE- KAVIYAH, P.S.- SHANKARPUR, DIST.- MADHEPURA

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Amarnath Jha
For the Opposite Party/s : Mr.Ram Sumiran Rai

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 09-12-2022 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 S.T. No. 254/2021 arising out of Shankarpur P.S. Case No. 107/2021 registered for the offences punishable under Sections 399, 402 of the Indian Penal Code and Sections 25(1-B)a, 26 and 35 of the Arms Act.

As per prosecution case, there is alleged recovery of one loaded pistol, two live cartridges and two mobiles from the possession of co-accused, Bandhan Kumar @ Ranjan Kumar and the said apprehended co-accused disclosed the name of petitioner and others who fled away from the place of occurrence.



Learned counsel for the petitioner submits that petitioner is innocent and has falsely been implicated in this case. The petitioner has been made accused in this case on the basis of confessional statement of co-accused, Bandhan Kumar @ Ranjan Kumar. The petitioner is languishing in custody since 19.07.2021 and bears criminal antecedent of six cases. Learned counsel for the petitioner further submits that the petitioner in a routine manner just because of criminal antecedent has been made accused one by one in one case after another. The petitioner is not apprehended on the spot and nothing incriminating article has been recovered from the conscious possession of the petitioner. He further submits that charge sheet has been submitted in this case and there is no likelihood of tampering with the prosecution evidence. Co-accused Bandhan Kumar @ Ranjan Kumar, upon whose confessional statement the name of the petitioner has been transpired, has already been granted bail by the co-ordinate Bench of this Court vide Cr. Misc. No.29851/2022 and the case of present petitioner stands on better footing.

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 has already been granted bail, charge sheet has already been submitted in this case and there is



no likelihood of tampering with the prosecution evidence, 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 bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-V, Madhepura in connection with S.T. No. 254/2021 arising out of Shankarpur P.S. Case No. 107/2021, 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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