

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60486 of 2021

Arising Out of PS. Case No.-166 Year-2021 Thana- TARAIIYA District- Saran

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OM PRAKASH MAHTO S/o PRAHLAD MAHTO R/o VILLAGE-
CHANDPURA, P.S-TARAIIYA, DISTRICT-SARAN.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Nalin Kumar, Adv.

For the Opposite Party/s : Mr. Binod Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 12-04-2022 Heard learned counsel for the petitioner and learned
counsel for the informant as well as the learned A.P.P. for the
State.

The petitioner seeks bail in a case registered for the
offence under Sections 341, 324, 307, 302/34 of the Indian Penal
Code and Section 27 of the Arms Act.

The prosecution case, in short, is that the informant
has claimed that all the accused persons including the petitioner
had committed the murder of her elder father-in-law, namely,
Manager Mahto.

Learned counsel appearing for the petitioner submits
that the petitioner, who is of clean antecedent, is innocent and
has falsely been implicated in this case. He further submits that it
is very much strange that initially the petitioner, in the F.I.R., is



said to have been armed with sword and subsequently, he is alleged to have fired upon the father-in-law of the informant causing injury to his thigh, therefore, the sequel of narration of occurrence seems to be improbable. Mere this contradiction in narration of occurrence is quite sufficient to falsify the entire case against the petitioner as because if a person holds a sword on the place of occurrence, as to how he can inflict firearm injury to anyone. He further submits that the direct allegation of firing upon deceased, Manager Mahto, is attributed to Vikash Mahto due to which the deceased died. He further submits that though there is allegation against the petitioner of having sword in hand but he has not inflicted any injury to the deceased. No cogent material has come against the petitioner during course of investigation, therefore, no case under Section 302 of the Indian Penal Code is made out against the petitioner. He further submits that the co-accused, namely, Rakesh Mahto has already been granted bail by a co-ordinate Bench of this Court vide order dated 25.02.2022 passed in Cr. Misc. No. 60716 of 2021. The petitioner is rotting in judicial custody since 26.05.2021.

Learned A.P.P. for the State as well as learned counsel for the informant have opposed the prayer for bail of the petitioner and submitted that the direct allegation of firing upon the deceased is attributed to the petitioner.

Considering the facts and circumstances of the case, let



the, above named, 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 learned Court below where the case is pending in connection with Taraiya P.S. Case No. 166 of 2021 with 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 and shall remain physically present as directed by the Court and on his/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be canceled 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.

And, further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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