

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69545 of 2021

Arising Out of PS. Case No.-245 Year-2007 Thana- BAKHTIYARPUR District- Patna

Purushottam Kumar @ Purushottam @ Tantan Son of Sri Shashikant Singh
Resident of Village- Shepur Naruali, P.O. Karauta, P.S.- Bakhtiyarpur and
District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Sanjay Kumar Griyaghey, Advocate Mr. Harshit Griyaghey, Advocate Mr.Aditya Prakash Sahay, Advocate
For the Opposite Party/s	:	Mr.Vinod Shanker Modi,APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 28-09-2022 Heard learned counsel for the petitioner and learned
APP for the State.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioner seeks bail in connection with Bakhtiyarpur P.S. Case No. 245 of 2007 registered for the alleged offences under Sections 376, 511, 307 and 34 of the Indian Penal Code and Section 27 of the Arms Act.

As per prosecution case, the informant along with her aunt went to attend the call of nature on the fateful evening,



when the petitioner and three other co-accused persons grabbed her and put her down and tried to commit rape with her. On shout being made by the aunt of the informant, her cousins came but they were assaulted by the petitioner and other co-accused persons with knife and the miscreants fled away from the spot opening fire from their pistol.

Learned counsel for the petitioner submits that petitioner is innocent and has been falsely implicated in this case due to enmity and village politics. The occurrence took place in the night and there was no source of light to identify the miscreants. So, it could be said that it was the case of mistaken identity. For the same occurrence two cases have been lodged, this case was lodged by this informant and Bakhtiyarpur P.S. Case No. 246 of 2007 has been lodged by the cousin of the informant, who got injured in the assault. However, the said cousin of the informant filed an application before the learned trial court that the petitioner has been wrongly implicated in this case due to mistaken identity as it was a dark night at the time of place of occurrence. Learned counsel further submits that co-accused namely Sujeet Kumar has been granted bail vide order dated 12.01.2018 passed in Cr. Misc. No. 58063 of 2017 and the case of the petitioner is similarly placed. Charge sheet has been



submitted in this case and the petitioner is in custody since 24.12.2020. He has got no criminal history, though for the same occurrence as already stated, he has been made accused in Bakhtiarpur P.S. Case No. 246 of 2007.

Learned APP for the State opposes the prayer for bail submitting that specific allegation has been made against this petitioner in the F.I.R. itself.

Having regard to the facts and circumstances and submission made on behalf of the parties and further considering the period of custody of this petitioner along with nature of allegation which appears to be general and omnibus, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate, 1st, Barh in connection with Bakhtiyarpur P.S. Case No. 245 of 2007, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions:

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the



court below.

(iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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