

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71172 of 2021**

Arising Out of PS. Case No.-99 Year-2016 Thana- SITAMARHI District- Sitamarhi

RAKESH RAI @ RAKESH KUMAR @ RAKESH KUMAR YADAV Son of
Suresh Rai @ Suresh Yadav Resident of village - R. D Palesh Indira Nagar,
Sitamarhi, P.S.- Sitamarhi, District - Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Virendra Kumar

For the Opposite Party/s : Mr.Anil Kumar

**CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER**

3 10-08-2022 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
Sitamarhi P.S. Case No. 99 of 2016 registered for the offences
punishable under Sections 385, 387 of the Indian Penal Code
and Section 27 of the Arms Act.

As per prosecution case, the accusation against the
petitioner is that he demanded extortion money and also claimed
firing at the clinic of Dr. P.P. Lohiya. It has also been alleged
that last night three boys had passed through informant's
nursing home after making firing and empty cartridges have



been produced by the staff of informant. The informant believes that firing has been made by the petitioner to create terror for earning money as extortion.

Learned counsel for the petitioner submits that petitioner is in custody since 23.09.2020 and bears criminal antecedent of 16 cases and all the cases are more or less of similar nature. Charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence. Petitioner was made accused only on the basis of his criminal antecedent as mentioned in para 3 of the bail petition. He further submits that petitioner is neither owner of mobile phone and sim card and mobile number given in the FIR does not belong to the petitioner. He further submits that petitioner is named in the FIR but father's name and address has not been stated in the FIR. No incriminating article has been recovered from possession of the petitioner. The alleged mobile number stands in the name of co-accused Saroj Kumar, as mentioned in the impugned order.

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

Considering the facts and circumstances of the case, period of custody, charge sheet has been submitted in the



case and there is no likelihood of tampering with the prosecution evidence and also taking into consideration the material available on record, let the petitioner above named be released on bail **after framing of charge** on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Sitamarhi in connection with Sitamarhi P.S. Case No. 99 of 2016, 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.

(iv) Petitioner shall furnish mobile number at the time of furnishing bail bond and the said mobile number shall continue in operating condition till disposal of the case and he shall get his presence marked before the officer-in-charge of the



concerned police station on the first Tuesday of every month.

(v) Petitioner shall not leave the territorial jurisdiction of concerned court without taking appropriate permission from the concerned court.

(vi) If the petitioner is found involved in similar nature of offences in future, the learned trial court shall be at liberty to cancel his bail bond.

(Alok Kumar Pandey, J)

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