

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71185 of 2021

Arising Out of PS. Case No.-683 Year-2021 Thana- SITAMARHI District- Sitamarhi

TIPU @ MD. MUMSAD @ MUMSHAD ALAM @ MD. MUMSHAD SON
OF LATE SYED MD. ABBAS RESIDENT OF MEHSHAUL PRESENTLY
RESIDING AT SAHU CHOWK, DUMRA ROAD P.S SITAMARHI.
DISTRICT SITAMARHI

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Ashhar Mustafa, Adv. Mr. Vikash Kr. Jha, Adv. Mr. Abu Nasar, Adv
For the State	:	Mr.Sanjay Kumar Singh, A.P.P.
For the informant	:	Rudrauk Shivam Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

3 29-06-2022 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, learned
counsel for the informant and learned A.P.P. for the State.

The petitioner seeks bail in connection with
Sitamarhi P.S. Case No. 683 of 2021 registered for the offences
punishable under Sections 302, 307, 120B, 379/34 of the Indian
Penal Code read with Section 27 of the Arms Act.

As per prosecution case, the informant has made
four accused persons as an accused including the petitioner. The
specific allegation of firing made by the informant is against
four unknown persons and it is stated that the staff Babli Kumari



died on the spot.

Learned counsel for the petitioner submits that petitioner is in custody since 26.08.2021 and bears no criminal antecedent. Charge sheet has been submitted in the case and there is no likelihood of tampering the prosecution evidence. There is no specific allegation against the petitioner regarding the alleged occurrence. He further submits that co-accused Seema Sinha has already been granted bail by co-ordinate bench of this court vide Cr. Misc. No. No. 2742 of 2022 and the case of present petitioner stands more or less on similar footing. It has been submitted that the name of the present petitioner has been roped in the alleged occurrence on the basis of extra judicial confession of FIR named accused Santosh Kumar which has no sanctity of law and no incriminating material, whatsoever, has been recovered from the possession of the petitioner with regard to the alleged crime. As per confession, crime in question was committed by co-accused Prabhu Bhagat, Indal Kumar, Ayush and Rajesh @ Manish who were hired by FIR named accused Santosh Kumar and Sandeep Kumar and none of the assailants claim any acquaintance with the petitioner whatsoever. He further submits that except the extra judicial confession, there is absolutely no shred of evidence against the



petitioner in the entire case. Moreover, there is no cogent material to connect the present petitioner with the alleged crime except the confession of co-accused Santosh Kumar.

The learned counsel for the informant as well as learned A.P.P. for the State vehemently oppose the prayer for bail of the petitioner and submit that petitioner is named in the F.I.R. and he was one of the conspirators in the alleged crime.

Considering the facts and circumstances of the case, period of custody, nature of allegation, charge sheet has already been submitted, co-accused Seema Sinha has already been granted bail and case of petitioner stands on similar footing and keeping in view clean antecedent of petitioner 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 C.J.M., Sitamarhi in connection with Sitamarhi P.S. Case No. 683 of 2021, GR No. 3406/2021, 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 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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