

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71627 of 2021

Arising Out of PS. Case No.-304 Year-2021 Thana- GAURICHAK District- Patna

NITISH KUMAR @ NITISH KUMAR PASWAN S/o- Shri Batohi Paswan
Resident of Village- Abdullachak, P.S.- Gaurichak, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dr. Shraddhanand Paswan

For the Opposite Party/s : Mr.Raj Kishore Singh

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

3 05-07-2022 Learned counsel for the petitioner is permitted to
make necessary correction in prayer portion of the petition.

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
Gaurichak P.S. Case No.304/2021 registered for the offences
punishable under Section 302 of the Indian Penal Code and 27
of the Arms Act.

As per prosecution case, on 26.07.2021 at 9 AM,
the informant proceeded from the house towards Kumhrar. After



sometime the informant got information on mobile that his son was shot at Pitch road near Koli village. Informant reached the police station and claimed that friend of deceased enticed away and shot him at village Koli.

Learned counsel for the petitioner submits that petitioner is in custody since 05.08.2021 and bears no criminal antecedent. He further submits that as per the F.I.R., time of occurrence is 12 noon on 26.07.2021 and the F.I.R. has been lodged at 4.30 P.M. on the same day in spite of that petitioner is not named in the F.I.R. at all and the FIR has been lodged against unknown. During investigation several persons including father, mother and sister were examined under Section 161 Cr.P.C. but none has named the petitioner and even none has claimed to see the petitioner with the deceased prior to the occurrence or at the time of the occurrence. It is further submitted that the police merely on suspicion apprehended the petitioner and the petitioner confessed his guilt before the police which is not admissible evidence in the eye of law. No incriminating material has been recovered from possession of the petitioner. He further submits that there is no recovery of firearm from possession of the petitioner hence, no case under Section 27 of the Arms Act is made out against the petitioner.



Charge sheet has been submitted in the case and there is no likelihood of tampering the prosecution evidence.

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

Considering the facts and circumstances of the case, F.I.R. has been lodged against unknown, period of custody, keeping in view clean antecedent of petitioner, no incriminating material has been recovered from possession of the petitioner as submitted and nature of allegation 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 First Additional Session Judge, Patnacity in connection with Gaurichak P.S. Case No. 304 of 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 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)

shahzad/-

U		T	
---	--	---	--

