

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63924 of 2021

Arising Out of PS. Case No.-73 Year-2020 Thana- NOWKOTHI GARHPURA District-
Begusarai

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Sonu Kumar, S/o Sanjay Thakur, R/o Village - Ramdiri Nakti Tola, P.S. -
Matihani, District - Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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with
CRIMINAL MISCELLANEOUS No. 64973 of 2021

Arising Out of PS. Case No.-73 Year-2020 Thana- NOWKOTHI GARHPURA District-
Begusarai

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Krishna Kumar @ Kishan, S/o Ashok Maht, R/o village- Parihara, P.S.-
Bakhri, District- Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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with
CRIMINAL MISCELLANEOUS No. 71529 of 2021

Arising Out of PS. Case No.-73 Year-2020 Thana- NOWKOTHI GARHPURA District-
Begusarai

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Bambam Mahton @ Ram Pravesh Mahton, S/o Late Horil Mahto, R/o
village- Samsa, P.S.- Nawkothe, District- Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 63924 of 2021)

For the Petitioner/s : Mr.Arjun Prasad, Advocate

For the Opposite Party/s : Mr.Nitya Nand Tiwary, APP

(In CRIMINAL MISCELLANEOUS No. 64973 of 2021)

For the Petitioner/s : Mr.Nakul Kumar Jamuar, Advocate

For the Opposite Party/s : Mr.Satyendra Narayan Singh, APP

(In CRIMINAL MISCELLANEOUS No. 71529 of 2021)

For the Petitioner/s : Mr.Nakul Kumar Jamuar, Advocate

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



CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 24-08-2022 Since all the applications arise out of Nawkothi P.S. Case No. 73 of 2020, as such, they have been heard together and are being disposed of by this common order.

Heard learned counsel for the petitioners 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 petitioners seek bail in connection with Sessions Trial No. 443 of 2021 arising out of Nawkothi P.S. Case No. 73 of 2020 registered for the alleged offences under Sections 302, 307, 120B and 34 of the Indian Penal Code and Section 27 of the Arms Act.

As per prosecution case, the petitioners and other co-accused persons came to the house of the informant and tried to forcibly took away his father with them and on his refusal, co-accused Krishna Kumar fired upon the father of the informant. When the mother of the informant tried to save the father of the informant, another co-accused Satrugan Kumar fired upon her. Both the victims fell down receiving grievous injury. Later on, mother of the informant succumbed to her injury. The



occurrence took place in the background of land dispute with co-accused Bambam Mahto and Ranjit Mahto and they threatened the family of the informant.

The learned counsel for the petitioner Sonu Kumar submit that there is no specific allegation against the petitioner and the allegations are general and omnibus against all the co-accused persons as well as the petitioner except the co-accused Krishna Kumar and Satrugan Kumar. The whole prosecution story as narrated by the informant is concocted and imaginary. Even during investigation, no cogent material came up against the petitioner. Other similarly placed co-accused persons have been granted bail by different Co-ordinate Benches of this Court, details of which are as follows:-

Shambhu Mahto & Sikandar Mahto have been granted bail vide order dated 19.07.2021 passed in Cr. Misc. No. 2250 of 2021, Ramesh Mahto has been granted bail vide order dated 19.05.2021 passed in Cr. Misc. No. 38481 of 2020, Sandeep Kumar @ Sanjeev Kumar has been granted bail vide order dated 12.03.2021 passed in Cr. Misc No. 1281 of 2021 and Shabnam Kumari has been granted bail vide order dated 14.07.2021 passed in Cr. Misc. No. 38789 of 2020. The case of the petitioner is on similar footing. Charge-sheet has been



submitted in this case and the petitioner is in custody since 06.10.2020.

Learned counsel for the petitioners Krishna Kumar and Bambam Mahto submits that the petitioners have been falsely implicated in this case. Though there is specific allegation against the petitioner Krishna Kumar for firing upon the father of the informant but he survived and hence no offence under Section 302 of IPC is made out against him. The FIR has been registered after two days of occurrence and the prosecution story is not believable against the petitioners. There is no specific allegation against the petitioner Bambam Mahto for any overt act. The petitioners Krishna Kumar and Bambam Mahto are in custody since 06.10.2020 and 05.12.2020, respectively.

Learned APP opposes the prayer for bail submitting that the petitioner Sonu Kumar has been named in the FIR though he concedes that no specific allegation has been made against this petitioner and other similarly placed co-accused persons have been granted bail. Learned APP further submits that however, the petitioner is a habitual offender and he has 8 cases pending against him.

Learned APP further opposes the prayer made on



behalf of other two petitioners submitting that the petitioner Krishna Kumar fired with the intention to cause death of the father of the informant but it was his good luck that he survived. The mother of the informant was not lucky enough and she died in firing.

Learned APP vehemently opposes the prayer made on behalf of the Petitioner Bambam Mahto submitting that he is a habitual offender and is accused in altogether 27 cases of very serious nature.

Perused the records.

Having regard to the submissions made hereinabove and considering the non-specific nature of allegation against the petitioner Sonu Kumar as no overt act has been attributed to him and further considering the grant of bail to the similarly placed co-accused persons and also considering the submission of charge-sheet as well as period of his custody, the petitioner **Sonu Kumar** is directed to be released on bail on furnishing bail bonds of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-XIV, Begusarai, in connection with Sessions Trial No. 443 of 2021 arising out of Nawkothi P.S. Case No. 73 of 2020, subject to the conditions



mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions :

(i) The bail bond of the petitioner Sonu Kumar will be accepted only after framing of charge, if not already framed.

(ii) One of the bailors will be the person, who has sworn the affidavit in the case.

(iii) The petitioner Sonu Kumar will remain present on each and every date fixed by the court below.

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

But further regard to the facts and circumstances and in view of specific nature of allegation against the petitioner Krishna Kumar that he fired upon the father of the informant though he survived and also in view of the fact that the petitioner Bambam Mahto @ Ram Pravesh Mahton has a long criminal history for quite serious and heinous offences with specific allegations of involvement in the present case, I am not inclined to enlarge the petitioners on bail.



Hence, the prayer for bail of Krishna Kumar and
Bambam Mahto are rejected.

Learned trial court is directed to expedite the trial and
conclude the same within nine months.

(Arun Kumar Jha, J)

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