

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71690 of 2021

Arising Out of PS. Case No.-77 Year-2019 Thana- SALIMPUR District- Patna

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Vikash Kumar @ Badri, Son of Umed lal Singh @ Umed lal, Resident of
Village - Nakhash Pind, P.S.- Malsalami, Distt.- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Nityanand Kumar, Advocate

For the Opposite Party/s : Mr. Harendra Kumar A.G.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

5 12-10-2022 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 Salimpur P.S. Case No. 77 of 2019 registered for the alleged offences under Sections 302, 394 and 34 of the Indian Penal Code and Section 27 of the Arms Act.

As per prosecution case, while the son of the informant was returning with his brother-in-law on motorcycle, they were surrounded by four motorcycle borne miscreants riding two motorcycle and one of the miscreants snatched the mobile phone from the pocket of the son of the informant and



fired upon his left chest and fled away from the spot. The son of the informant was shot dead.

Learned counsel for the petitioner submits that petitioner has moved before this court earlier and twice his prayer for bail was rejected. However, while rejecting his prayer for bail vide order dated 10.02.2021 passed in Cr. Misc. No. 1430 of 2021, a Coordinate Bench directed the learned trial court to conclude the trial within a period of nine months from the date of receipt/production of a copy of the order subject to condition that petitioner would cooperate in this case. However, the trial has not been concluded till date and there is no likelihood of any early conclusion of trial. Similarly placed co-accused persons have been granted bail by different Coordinate Benches. Co-accused Manish Kumar has been granted bail vide order dated 02.07.2020 passed in Cr. Misc. No. 20354 of 2020, Ankit Kumar has been granted bail vide order dated 01.03.2021 passed in Cr. Misc. No. 27766 of 2020 and Chhotu Kumar has been granted bail vide order dated 06.08.2021 passed in Cr. Misc. No. 7903 of 2021. The case of the petitioner is similarly placed with the other co-accused persons and the allegations are same. The learned counsel further submits that the name of the petitioner transpired in this case in self confessional statement



of this petitioner. Learned counsel further submits that the petitioner and other co-accused persons disclosed in their confessional statement that it was co-accused Nikhil Kumar who fired upon the deceased. Learned counsel further submits that this petitioner was not apprehended from the spot and nothing incriminating has been recovered from his possession or at his instance. No Test Identification Parade has been conducted in this case. Charge has not been framed up till now and the petitioner is in custody since 11.11.2019.

Learned APP for the State opposes the prayer for bail of the petitioner submitting that the prayer for bail of the petitioner was rejected twice by a Coordinate Bench.

Perused the records.

It transpires from the record that a report was called for from the learned trial court regarding the stage of trial and from the report dated 08.07.2022, it further transpires that charges have not been framed in this case.

Under the aforesaid facts and circumstances and submission made on behalf of the petitioner and considering the fact that there is no likelihood of conclusion of trial in near future and considering the period of custody of the petitioner, I am inclined to enlarge this petitioner on bail and hence, his



prayer for bail is allowed and 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 A.D.J.-IV, Barh, Distt-Patna in connection with Salimpur P.S. Case No. 77 of 2019, 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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