

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61096 of 2021**

Arising Out of PS. Case No.-248 Year-2021 Thana- SIWAN CITY District- Siwan

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GOVINDA PASWAN SON OF SUDHU PASWAN @ SIDHU MANJHI R/O
VILLAGE- ATARSUA, P.S.- SARAY O.P., DISTRICT- SIWAN

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

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with

CRIMINAL MISCELLANEOUS No. 1863 of 2022

Arising Out of PS. Case No.-248 Year-2021 Thana- SIWAN CITY District- Siwan

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MITHLESH KUMAR S/o- Jagdish Prasad Resident of Village- Atarsua, P.S.-
Sarai O.P., District- Siwan.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 61096 of 2021)

For the Petitioner/s : Mr.Masoom Alam

For the Opposite Party/s : Mr.Tapeshwar Sharma

(In CRIMINAL MISCELLANEOUS No. 1863 of 2022)

For the Petitioner/s : Mr.Ajay Kumar Pandey

For the Opposite Party/s : Mr.Uma Shankar Prasad Singh

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 01-08-2022 Since both the petitioners arise out of Siwan Town

(Sarai) O.P. P.S. Case No. 248 of 2021, as such, they are being

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 Siwan Town (Sarai) O.P. P.S. Case No. 248 of 2021 registered for the alleged offences under Section 302 of the Indian Penal Code and Sections 25(1-b)a/26 & 27 of the Arms Act.

As per prosecution case, the informant recorded his fardbeyan wherein he alleged that the petitioner Govinda Paswan shot her aunt dead. Later on the name of petitioner Mithilesh Kumar surfaced during the investigation as the another accused who fired upon and shot dead the aunt of the informant.

Learned counsel for the petitioner Govinda Paswan submits that except for suspicion there is nothing against this petitioner in the FIR. There is no eye witness to the alleged occurrence and nothing incriminating has been recovered from the person or possession of the petitioner. During the investigation, the statement of five years old daughter of the deceased was recorded after three months of the alleged occurrence wherein she has named this petitioner. This long period between the occurrence and recording of statement creates suspicion over the prosecution story. Charge sheet has been submitted in this case and the petitioner is in custody since 08.05.2021.

Learned counsel for the petitioner Mithilesh Kumar submits that the petitioner was not named in the FIR and his name



came up during investigation. No cogent material has come up against this petitioner except the statement of the child and that appears to be hearsay and it seems child has not seen the occurrence. She is not an eye witness. Charge sheet has been submitted in this case and the petitioner is in custody since 05.09.2021.

The learned APP opposes the prayer for bail made by the petitioners submitting that their names came up even in statement of witnesses who named them for assault on deceased.

Perused the records.

Having regards to the statement recorded in paragraph 65 of the case diary wherein the five years old daughter of the deceased has named the petitioner Govinda Paswan as person who assaulted the deceased and petitioner Mithilesh Kumar shot her dead, I am not inclined the petitioner Mithilesh Kumar to enlarge on bail at this stage.

Accordingly, his prayer for grant of bail is rejected.

Learned trial court is directed to expedite the trial.

However, in the given facts and circumstances the fact that there is only allegation of assault against the petitioner Govind Paswan, he 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 Chief Judicial



Magistrate, Siwan in connection with Siwan Town (Sarai) P.S.
Case No. 248 of 2021, 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 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.
- (iii) The petitioner 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 bond of the
petitioner will be liable to be cancelled
by the court concerned.

(Arun Kumar Jha, J)

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