

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2237 of 2023

Arising Out of PS. Case No.-92 Year-2022 Thana- HUSSAINGANJ District- Siwan

Sabir Miyan @ Shabir Hussain @ Shabir Ali S/O Ali Hussain R/V- Orma
Naya Tola, P.S.- Siwan Muffasil, District- Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Arbind Kumar Singh, Advocate
For the Opposite Party/s	:	Md. Ataur Rahman, APP
For the Informant	:	Mr. Ranjeet Kumar Pandey, Advocate
	:	Mr. Rajesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

6 26-06-2023 Heard learned counsel appearing on behalf of the
petitioner and learned APP appearing on behalf of the State.

The petitioner seeks bail in connection with
Hussaingunj P.S. Case No.92 of 2022 registered for the offence
under Sections 302, 120-B and 307 of the Indian Penal Code
and Section 27 of the Arms Act.

The accused/petitioner is named in the F.I.R. and is in
custody since 31.08.2022.

The allegation against the petitioner is to involve in
indiscriminate firing alongwith other named co-accused
persons, where during the course of occurrence three person
received bullet injuries, who were political supporters of the
informant and also causing death of one passer-by, namely



Binod Yadav.

Learned counsel appearing on behalf of the petitioner submitted that from the narration of F.I.R., itself it appears that name of petitioner surfaced in the present case on the basis of suspicion. It is submitted that informant is the eye-witness of the occurrence and despite of the fact no specific overt act attributed to this petitioner, rather it is narrated that petitioner was involved in indiscriminate firing. It is submitted that name of petitioner surfaced on the basis of confessional statement of co-accused, namely Azad Ansari, where in furtherance of which no incriminating material recovered/surfaced to connect this petitioner with the present occurrence. It is also submitted that one firearm alleged to be recovered during the course of investigation was not recovered from this petitioner rather from the co-accused, Azad Ansari. It is further pointed out that Call Detail Records (CDRs) is also not supporting the allegations as raised through present F.I.R. While concluding the argument, it is submitted that petitioner found involved in 13 more criminal cases, where he is on bail and out of said suspicion arises due to criminal antecedents and being supporter of rival political party of the area, his name was implicated with present case without having any cogent materials and moreover, investigation of this



case has been completed, for which, charge-sheet has already submitted, as such, there is no chance of tampering with the evidence.

Learned APP duly assisted by learned counsel appearing on behalf of informant, while opposing the prayer for bail submitted that petitioner appears to be involved actively in indiscriminate firing.

In view of the facts and circumstances as mentioned above and by taking note of the fact, as no specific act attributed to this petitioner, where petitioner appears known to the informant, further no incriminating material/firearm recovered during the course of investigation from this petitioner, where his name surfaced on the basis of confessional statement of Azad Ansari, coupled with the fact that charge-sheet has already been submitted, where petitioner is in custody since 31.08.2022, let above named petitioner is directed to be released on bail in connection with Hussaingunj P.S. Case No.92 of 2022 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Additional Chief Judicial Magistrate-IX, Siwan/concerned court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C. with further condition :-



(i) That petitioner shall not involve in the similar nature of offence till the conclusion of trial, failing which, the State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the petitioner.

(ii) That petitioner shall not make any contact or try to influence any prosecution witnesses till the conclusion of trial in any manner, failing which, the State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the petitioner.

(iii) Accused/Petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed



by the Trial Court, only on medical ground of the petitioner duly supported by the documents.

(iv) That one of the bailors shall be deponent of the present bail petition.

(Chandra Shekhar Jha, J.)

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