

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.8476 of 2023

Arising Out of PS. Case No.-312 Year-2018 Thana- JANDAHA District- Vaishali

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VIJAY RAI Son of Late Rambriksh Rai R/v- Nawada Bujurg, P.S.- Ganga
Bridge, District- Vaishali, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Surendra Kumar Singh, Advocate Mr. P. Kumar, Advocate Ms. Tulika Singh, Advocate
For the Opposite Party/s	:	Ms.Nirmala Kumari, App

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 20-04-2023 Heard learned counsel for the petitioner and the

learned APP for the State.

2. Petitioner seeks regular bail in connection with
Jandaha P.S. Case No. 312 of 2018 dated 31.12.2018 registered
for the offence(s) punishable under Section(s) 302, 394 of the
Indian Penal Code and Section 27 of the Arms Act.

3. As per the prosecution, two miscreants on a
motorcycle came at the informant's shop and at the strength of
arms, looted galla (cash box) of the shop and when his staff
Pankaj Kumar made protest, they fired upon him, as a result of
which, he died.

4. The main submissions advanced by the learned



counsel for the petitioner are that the petitioner is not named in the FIR and his name surfaced in the statement of co-accused Rahul Kumar who has been granted bail by a co-ordinate Bench of this Court vide order passed in Cr. Misc. No. 38559 of 2019 and four other co-accused persons, namely, Sumit Kumar @ Raja, Abhishek Kumar @ Abhishek Anand, Md. Mustfia @ Badal @ Md. Mustfa and Prince Kumar @ Chandal, carrying similar nature of allegation, have been granted bail by different co-ordinate Benches of this Court vide orders passed in Cr. Misc. Nos. 33264 of 2019, 22398 of 2019 and 45466 of 2019 respectively and during the course of investigation, no positive definite or connecting material as against the petitioner with respect to the offence has been brought to suggest his complicity in the alleged crime. Further submission is that after the completion of investigation against the co-accused persons, the police submitted charge-sheet on 15.04.2019 and thereafter on 18.10.2021, the police came at the house of this petitioner and only then the petitioner came to know about his involvement in the alleged crime by the police and the main ground on which the petitioner has been made accused is extra judicial confession of the co-accused Rahul Kumar and against the petitioner, investigation has been completed and after his arrest



in the present matter, the police did not conduct Test Identification Parade in respect of petitioner's involvement in the alleged crime and accordingly there is no any material or evidence to connect the petitioner to the alleged crime and after his arrest, the police failed to recover any incriminating material showing the petitioner's involvement in the alleged crime in following with the statement made by the petitioner before the police.

5. Though learned APP appearing for the State has opposed the bail prayer but he has not pointed out any incriminating material against the petitioner.

6. Considering the above submissions and mainly the privilege of bail having been granted to several co-accused persons and petitioner's name surfaced in the statement of co-accused Rahul Kumar who is on bail and petitioner was also not put on Test Identification Parade as per above submission, police did not get any incriminating material after petitioner's arrest in the light of statement given by him before the police, in the opinion of this Court a lenient approach can be taken in respect of the petitioner's prayer, let the petitioner be released on bail in connection with Jandaha P.S. Case No. 312 of 2018 on furnishing bail bond of Rs.10,000/-(Ten Thousand) with two



sureties of the like amount each to the satisfaction of the Court
concerned.

(Shailendra Singh, J)

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