

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3867 of 2023

Arising Out of PS. Case No.-232 Year-2021 Thana- BIHARIGANJ District- Madhepura

SURENDRA MAHTO @ SHAILENDRA MAHTO S/O SITA RAM
MAHTO R/v- Gangora, Ward No. 01, P.S.- Bihariganj, District- Madhepura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Alok Kumar Singh, Adv.

For the Opposite Party/s : Mr. J.N. Thakur, APP

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

5 19-05-2023 Heard learned counsel for the petitioner as well as
learned APP for the State.

In this case, the petitioner is seeking regular bail in connection with Bihariganj P.S. Case No. 232 of 2021, registered for the offences punishable under Sections 307, 34 of the Indian Penal Code and Section 27 of the Arms Act and later on Section 302 was added.

As per allegation, the husband of the informant proceeded at 3 p.m. from his house by his motorcycle. At 5.30 p.m. her husband called his brother Dharmendra Kumar and apprised that four unknown persons who came on motorcycle made him injured by firing shot. The miscreants fled towards Bihariganj. Her husband died in course of treatment in Patna.

Learned counsel for the petitioner has submitted that



the petitioner is not named in the FIR. The husband of the informant telephoned his brother and apprised the occurrence, but even he did not name the petitioner. His name has figured in paragraph No. 30 of the case diary on the basis of statement given by the father of the deceased. His father has also filed an application on 17.10.2021 addressing the SHO, Bihariganj, Madhepura which is available at page 10 of the case diary. In his application the father of the deceased named eight accused persons but he did not name the petitioner. The petitioner is not named in the FIR.

On the other hand, the learned APP, Sri J.N. Thakur has opposed the prayer for bail and submitted that the name of the petitioner has figured in paragraph No. 30, 31 and 32 of the case diary in the statement of the father of the deceased.

The application filed by the father of the deceased shows that he named the persons who had killed his son by firing shot as (i) Sikendra Mahto (ii) Buttan Mahto (iii) Surendra Mahto @ Rishab Kumar son of Kamleshwari Mahto (iv) Virendra Kumar (v) Bablu Mahto (vi) Ajit Kumar. The petitioner is not named in the FIR. The name of the petitioner is Surendra Mahto but his father's name is Sitaram Mahto who is not the same person as mentioned in the application of father of the deceased. He is under custody since 18.10.2022 and he is a person of clean antecedent.

Considering the above-mentioned facts and circumstances, let the petitioner, above-named, be released on bail



on furnishing bail bonds of Rs.10,000/- with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-I, Madhepura in connection with Bihariganj P.S. Case No. 232 of 2021, subject to the following conditions:-

(i) The petitioner shall cooperate in the disposal of trial and make himself available as and when required by the court.

(ii) If the petitioner is found involved in future in the similar type of offence, the prosecution will have liberty to file an application before the court below for cancellation of the bail of the petitioner and the learned court below will take decision in accordance with law.

The personal appearance of investigating authority is dispensed with.

(Nawneet Kumar Pandey, J)

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