

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4409 of 2023

Arising Out of PS. Case No.-1048 Year-2019 Thana- SAHARSA SADAR District- Saharsa

Raushan Kumar @ Raushan Sah @ Raushan Kumar Sah, S/O Shambhu Sah
Resident of village- Hario, P.S.- Bakhtiyarpur (Balwa Hat O.P.), District-
Saharsa.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Bimlesh Kumar Pandey
For the Opposite Party/s	:	Mr. Akhileshwar Dayal
For the Informant	:	Mr. Binod Murari Mishra

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

3 02-03-2023 This case is listed for hearing out of turn on

account of mentioning that the petitioner is student of M.Sc.,

Part II, Semester-III of MLT College, Saharsa and his

examination is scheduled to commence from 14.03.2023.

Heard Ld. counsel for the petitioner and Ld. APP

for the State.

The petitioner seeks bail in connection with

Saharsa Sadar P. S. Case No. 1048 of 2019, registered for

the offences punishable under Sections 302 of 34 of the

Indian Penal Code and Section 27 of Arms Act, 1959.

The prosecution case as emerges from the FIR is

that on 25.11.2019 at about 01.00 hrs., when the informant



was going to the clinic of Dr. Anuj Kumar, with his wife, for her treatment, the petitioner and his associates stopped them and shot fire, which hit the wife of the informant, due to which she died.

Ld. counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case. He further submits that though the petitioner is named accused in the F.I.R., however, after investigation the police has filed final form against all the named F.I.R. accused persons, keeping the investigation pending against unknown persons. However, on this final form, the Ld. Magistrate has taken cognizance against this petitioner and he has been in custody since 28.11.2022.

It has also been stated in paragraph no. 3 of the bail petition that the petitioner has earlier been made accused in two more cases.

It is also stated in paragraph no. 2 of the bail petition that the petitioner has moved this Court earlier for grant of anticipatory bail *vide* Cr. Misc. No. 12609 of 2021, which was rejected *vide* order dated 20.06.2022.



However, Ld. APP for the State vehemently opposes the prayer of the petitioner for bail.

Considering the aforesaid facts and circumstances, particularly the fact that the case was finalized against the petitioner, **this application is allowed**, directing the petitioner, above-named, to be enlarged on bail on his furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) with two sureties of the like amount each to the satisfaction of Ld. Sri N. K. Pandey, Ld. Judicial Magistrate 1st Class, Saharsa, in connection with Saharsa Sadar P. S. Case No. 1048 of 2019, on the following conditions:

(i) The petitioner will make himself available for interrogation by a police officer/court as and when required.

(ii) The petitioner will undertake that investigation/trial will not get hamper on account of his absence or non-cooperation. He must be available to the police or the court whenever his presence is required.

(iii) The petitioner shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him



from disclosing such facts to the court or to any police officer.

(iv) In case, it is brought to the notice of the court below that the petitioner has criminal antecedents other than the disclosed one, Ld. court below shall cancel the bail bonds of the petitioner after hearing him and getting satisfied that the petitioner has concealed his criminal antecedents despite his knowledge of the same.

(v) In case, it is brought to the notice of the court below that statement regarding previous bail petition is wrong, Ld. court below shall cancel the bail bonds of the petitioner.

It is made clear that in case the ground of out of turn hearing as mentioned by Ld. Counsel for the petitioner is found to be false by the court below on information provided by the informant and the court below getting satisfied that the ground mentioned for out of turn hearing is false, the court below shall cancel the bail-bonds of the petitioner.

Ld. counsel for the petitioner is directed to remove



all the defects, if any, pointed out by the office within a period of one month and the Registry is directed to issue the certified copy of this order only after removal of office objections.

(Jitendra Kumar, J)

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