

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7440 of 2023

Arising Out of PS. Case No.-149 Year-2021 Thana- SITAMARHI District- Sitamarhi

KUMAR SHIVAM @ SHIVAM KUMAR Son of Late Vinod Bihari Mishra
Resident of Mohalla - Laxmana Nagar, Sidha Ashram, Ward No.- 16, P.S.-
Sitamarhi, District - Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ashish Kumar Ranjan
For the Informant/s	:	Mr. Shashank Shekhar
For the State	:	Mr. Uday Pratap Singh

CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
ORAL ORDER

3 14-03-2023 Heard learned counsel for the petitioner, leaned
counsel for the informant and learned APP for the State.

The petitioner has prayed for regular bail in a case registered for the offence punishable under sections 147, 149, 447, 504, 307, 302 of the Indian Penal Code and Section 27 of the Arms Act.

The prosecution story, in brief, is that the accused persons including the petitioner came at the gate of temple, called out the informant and when he came near the gate, co-accused Satyam caught hold of him and started pulling out. It is further alleged that the accused persons indulged in giving lathi blow and iron rod blow upon the informant. The allegation of firing has been made against this petitioner Kumar Shivam and



co-accused Kumar Satyam who allegedly fired four rounds from their pistol causing injury to informant's wife and Mahanth of the temple. In the said firing, Mahanth Hari Narayan Das @Hari Das died.

Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence. He has falsely been implicated in this case. From perusal of the FIR, allegation against the petitioner is that he fired upon the deceased by firearm due to which he died but the injured wife retracted from prosecution story and stated before the Investigating Officer that the accused persons including the petitioner assaulted the deceased by means of penetrating weapons and this fact has been mentioned in para 98 of case diary. According to the postmortem report, doctor opined that the cause of death is due to haemorrhage and shock leading CR failure, injury caused by sharp penetrating object and wound caused by hard and blunt substance whereas the allegation has been made against the petitioner that he fired upon the deceased due to which he died. There is no any firearm injury in the postmortem report of the deceased, so the prosecution changed the story latter on which is highly suspicious. A statement has been made in para-3 of the petition that the petitioner has got



no criminal antecedent. Moreover, the petitioner is languishing in judicial custody since 19.12.2022.

Learned APP appearing for the state and learned counsel for the informant have vehemently opposed the prayer of regular bail.

Having heard learned counsel for the parties and considering the facts and circumstances of the case, this court is inclined to enlarge the petitioner on bail. The above named petitioner is directed to be **released on bail after framing of charge** in connection with Sitamarhi P.S. Case No. 149 of 2021 on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned C.J.M., Sitamarhi.

(Sunil Kumar Panwar, J)

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