

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12895 of 2023

Arising Out of PS. Case No.-818 Year-2021 Thana- LAKHISARAI District- Lakhisarai

Polu Kumar @ Rakesh Kumar Singh S/o Late Bilayati Singh R/o Village-
Paharpur, P.S. and P.O.- Barhiya, Distt- Lakhisarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shailesh Anand, Advocate

For the Opposite Party/s : Mr. Tarun Prasad Mandal, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 23-08-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, if any, within a period of four weeks from today.

3. Petitioner seeks bail who is in custody since 11.08.2022 in connection with Lakhisarai P.S. Case No. 818 of 2021, F.I.R. dated 29.11.2021 for the offences punishable under Sections 302/34 of the Indian Penal Code and Section 27 of the Arms Act.

4. According to prosecution case, the son of the informant, namely, Rahul Kumar is alleged to have been killed by some unknown persons by inflicting him gunshot injury.

5. Learned counsel for the petitioner submits that



petitioner is innocent and he has falsely been implicated in the present case. He further submits that the petitioner is not named in the F.I.R. and the name of the petitioner has been transpired during investigation on the basis of the confessional statement of the co-accused, namely, Divakar Singh @ Divakar Kumar @ Bhullu, which was recorded in paragraph 102 of the case diary and thereafter the confessional statement of the petitioner was also recorded. He further submits that the co-accused, Divakar Singh in his confessional statement categorically stated that a scuffle took place between Dumdum Singh and Rahul Kumar (deceased) and Dumdum Singh fired upon Rahul Kumar and at best the petitioner was present at the place of occurrence. He further submits that there is no specific allegation of any assault or overt act attributed against the petitioner. He further submits that similarly situated, co-accused, namely, Gulshan Kumar @ Dumdum has been granted bail by a co-ordinate Bench of this Court vide order dated 24.07.2023 passed in Cr. Misc. No. 14064 of 2023. The petitioner is in custody since 11.08.2022.

6. The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioner and submits that it has come during investigation that the petitioner was involved in the present crime in question and the bail



application of the co-accused, namely, Divakar Singh @ Divakar Kumar @ Bhullu and Kanhaiya Kumar have been rejected by this Court vide order dated 25.04.2023 passed in Cr. Misc. No. 65093 of 2022 and Cr. Misc. No. 15255 of 2023 respectively.

7. Considering the aforesaid facts and circumstances, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Lakhisarai in connection with Lakhisarai P.S. Case No. 818 of 2021, subject to the following conditions:-

i. Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

ii. If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

iii. And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his



criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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