

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10127 of 2023**

Arising Out of PS. Case No.-967 Year-2021 Thana- HAJIPUR SADAR District- Vaishali

RAJA PASWAN SON OF LAL BACHAN PASWAN R/O VILLAGE-
KUTUBPUR, P.S.- HAJIPUR SADAR, DISTRICT- VAISHALI

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mritunjay Kumar, Adv.

For the Opposite Party/s : Mr. Sanjay Kumar Tiwary, APP

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER**

3 19-05-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

Petitioner seeks bail, who is in custody since
16.08.2022 in connection with Hajipur Sadar P.S. Case
No.967/2021, F.I.R. dated 02.11.2021, for the offences
punishable under Sections 302/34 of the IPC & Section 27 of
the Arms Act.

According to prosecution case, three unknown persons
have fired upon the brother of the informant, due to which, he
sustained injury on his head, Panjari and leg and he became
badly injured. Thereafter he was taken to hospital, where in
course of treatment he died.

Learned counsel for the petitioner submits that
petitioner has falsely been implicated in the present case. He



further submits that the petitioner is not named in the F.I.R. The name of the petitioner has been transpired during investigation on the basis of confessional statement of the co-accused, namely, Suraj Kumar, who has been granted bail by a co-ordinate Bench of this Court vide order dated 10.04.2023 passed in Cr. Misc. No. 73440/2022.

Learned Additional Public Prosecutor for the State on the other hand on the basis of material available on the records and the case diary has vehemently opposed the prayer for bail of the petitioner and submits that it has come during investigation in paragraph-26 of the case diary that the petitioner has fired upon the victim and the postmortem report also supports the allegation as has found during investigation.

Learned counsel for the State has relied upon a Judgment, **reported in 2022 LiveLaw (SC) 610 Indresh Kumar Vs. The State of Uttar Pradesh**, in which, the Hon'ble Apex Court have been pleased to observe that-

“Statements under Section 161 of Cr.P.C. may not be admissible in evidence, but are relevant in considering the prima facie case against an accused in an application for grant of bail in case of grave offence.”

In the present case too, there is specific allegation against the petitioner in para-26 of the case diary that petitioner



has fired upon the victim.

In view of the aforesaid, I am not inclined to enlarge the petitioner on bail in connection with Hajipur Sadar P.S. Case No.967/2021, pending in the court of learned J.M.1st Class, Vaishali at Hajipur.

Prayer is refused.

(Rajesh Kumar Verma, J)

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