

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8540 of 2023

Arising Out of PS. Case No.-269 Year-2018 Thana- HATHAURI District- Muzaffarpur

AVINASH KUMAR @ CHANDAN Son of Raj Kumar Singh Resident of
Village- Bhadai, P.S.- Hathauri, District- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Rama Kant Sharma, Sr. Adv Mr. Santosh kr. Pandey, Advocate
For the Opposite Party/s	:	Mr. Mohammad Sufyan
For the Informant	:	Mr. Ravi Ranjan, Advocate

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 12-04-2023 Heard learned Sr. counsel for the petitioner, learned
counsel for the opposite party no. 2 and learned APP for the
State.

This application has been filed for grant of bail of the
petitioner namely *Avinash Kumar @ Chandan* who is in custody
since 28.07.2021 being made accused in Hathauri P.S. Case No.
269 of 2018 (Sessions Trial No. 177 of 2022), dated 22.12.2018
for the offences under Sections 302/34 of the Indian Penal Code
and Section 27 of the Arms Act and the case is at present
pending before the Court of learned Additional Sessions Judge-
II, Muzaffarpur.

The Prosecution story in short is that:- “*One Vijay
Krishna Sharma lodged a written complaint before the Office-
in-Charge of Hathauri P.S. on 22.12.2018 stating that there was
Ekadash feast of mother of Vishwanath Singh on 21.12.2018 at
about 6.45P.M., at the door of Raj Kumar Singh in which the
informant and his younger brother Ram Krishna Sharma @
Laddu Singh were also present and other villagers were also*



present there. Ram Krishna @ Laddu Singh was getting the rice being served in the feast, in the meantime, both the accused namely Avinash Kumar @ Chandan and his father namely Raj Kumar Singh surrounded Ram Krishna Sharma @ Laddu Singh and took out pistols from their waist and started firing at him. As a result of this, Ram Krishna Sharma @ Laddu Singh got injured and fell down upon which when the informant and other reached to save Ram Krishna Sharma @ Laddu Singh, they were threatened by the accused person to shoot at them. The informant and the villagers tried to carry Ram Krishna Sharma @ Laddu Singh for treatment but by that time Ram Krishna Sharma @ Laddu Singh was already dead.”

I have heard the submission of the parties.

This is a second attempt of the petitioner for bail. Earlier the prayer for bail was rejected on 25.05.2022. During hearing of this bail application, the opposite party no. 2 was directed to get his defence witnesses examined.

Today, learned counsel for the opposite party no. 2 submits that he had filed *Hajiri* of two defence witnesses on 28.03.2023 but they were not examined. Learned counsel for the opposite party no. 2/informant has not produced the order-sheet to show as to why the witnesses were not examined but he submits that since other accused persons were also on trial, the learned Trial Judge wanted to amalgamate the trial of all the co-accused persons of this matter and proceed in the case and because of that the Trial is pending. He also submits that one of the co-accused is in *Jail* outside *Bihar* which is also causing



delay in the Trial.

The petitioner is in custody since 28.07.2021 and similar co-accused Raj Kumar Singh who is also said to have fired on the deceased as per the F.I.R. has been granted bail on 25.09.2019 after remaining in custody for about 7 to 8 months as has been stated by the learned senior counsel for the petitioner.

It is not the case of the prosecution that the petitioner is delaying the trial. The petitioner cannot be kept in custody only because the prosecution is unable to conclude the trial.

In these 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 Additional Sessions Judge, II, Muzaffarpur in connection with Hathauri P.S. Case No. 269 of 2018 (Sessions Trial No. 177 of 2022).

The petitioner will cooperate in the Trial and he will be represented in the trial through his lawyer or will appear personally. In case, he is not personally appearing, he will have to give an affidavit that evidence may be recorded in his absence in presence of his lawyer. After grant of bail, the petitioner will stay out of *Bihar*. Learned senior counsel for the petitioner has



submitted that the petitioner will stay in *Gaur City Greater Noida* 14th Avenue, Flat No. 1063 along with his uncle which falls under the jurisdiction of *Bisrakh* Police Station in *Greater Noida*. The petitioner will travel to *Muzaffarpur* only to attend the sessions trial of the present case and after attending the case, he will go back to *Greater Noida*. While leaving *Greater Noida*, he will have to inform the *Bisrakh* Police Station of *Greater Noida* that he is going to leave the jurisdiction of *Bisrakh* Police Station and on return he will again report to the *Bisrakh* Police Station. The S.H.O. of *Bisrakh* Police Station will watch the activities of the petitioner and in case of any complaint against the petitioner, the S.H.O. will inform the Trial Court about the same. The petitioner will also give an undertaking that he will not involve himself in any criminal activity.

Violation of any of the terms and conditions of the bail shall result in the cancellation of bail of the petitioner by the Trial Court itself.

(Sandeep Kumar, J)

Shishir/Vikas

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