

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10678 of 2023

Arising Out of PS. Case No.-76 Year-2022 Thana- SONBERSA District- Saharsa

Hitlar Kumar, Son Of Late Bechan Yadav, R/O Village- Mali, Ward No.06,
P.S.- Beldour, District- Khagaria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Suraj Kumar, Advocate

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

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 03-05-2023 Heard Mr. Suraj Kumar, learned counsel appearing
on behalf of the petitioner and the learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Sonbarsa Raj P.S. Case No. 76 of 2022 giving rise to Sessions Trial No. 312 of 2022 registered for the offence punishable under Section 302/34 of the Indian Penal Code and Section 27 of the Arms Act.

It is alleged that while the informant, who happens to be khalasi, and the deceased (driver) were going to Saharsa on the truck, in the meantime, at about 3:30 hours on 29.03.2022, three criminals surrounded them and on the point of pistol asked them to stop the vehicle. It is alleged that one of the criminal fired upon the driver 'Nitish Kumar', who sustained firearm injury in his chest and later on succumbed to the injuries, the criminals thereafter fled away.



Submission has been made on behalf of the petitioner that the FIR has been instituted against unknown miscreants, however, during the course of investigation, the name of the petitioner surfaced on the confessional statement of one ‘Sanjeet Kumar @ Sanjeet Yadav’ and save and except the confessional statement, there is no material suggesting the complicity of the petitioner in the present crime. Apart from the fact, the petitioner is in custody since 22.06.2022, till date he has neither been put on Test Identification Parade nor any incriminating material has been recovered from his person or possession. He next submitted that in fact the name of the petitioner in the present crime is implicated on account of his past criminal antecedent, which has been shown in paragraph no. 3 of the application. The co-accused ‘Sanjeet Kumar @ Sanjeet Yadav’ on whose confession, the name of the petitioner transpired has already been allowed the privilege of bail by the learned co-ordinate Bench of this Court in Cr. Misc. No. 58443 of 2022 vide order dated 03.04.2023.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that the petitioner is named in three other criminal cases, besides the present one and he is a habitual offender.



Regard being had to the submissions made on behalf of the parties and considering the fact that the person on whose confession the name of the petitioner has transpired, has already been allowed the privilege of bail, apart from the fact that neither he has been put on Test Identification Parade nor any incriminating material has been recovered from the person or possession, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge – IV, Saharsa in connection with Sonbarsa Raj P.S. Case No. 76 of 2022 giving rise to Sessions Trial No. 312 of 2022, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be



cancelled.

(v) 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 immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

shivank/-

U		T	
---	--	---	--

