

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25380 of 2023

Arising Out of PS. Case No.-61 Year-2022 Thana- NAUHATTA District- Saharsa

NITISH KUMAR SON OF BADRI YADAV RESIDENT OF VILLAGE
JHITKIYA WARD NO 8, PS- GAWALPAR (ARAR OP) DISTRICT-
MADHEPURA

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bhavesh Kumar Sah, Adv.

For the Opposite Party/s : Mr.Asha Devi, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 25-07-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks bail in connection with Nauhata
P.S. Case No. 61 of 2022 registered for the offence under Sections
394 and 302 of the Indian Penal Code and 27 of the Arms Act.

Unknown three criminal are said to have overtaken the
brother of the informant and opened fire upon him causing him
bullet injury.

Learned counsel appearing for the petitioner submits
that the petitioner is innocent and has falsely been implicated in
this case. He further submits that the petitioner has not been
named in the F.I.R. but on the basis of confessional statement of
the co-accused, Gauri Shankar Kumar, this petitioner has been
apprehended in this case. Save and except the confessional



statement of the co-accused and the CDR which reflects that the petitioner have had conversation with the co-accused, no cogent material has surfaced during course of investigation suggesting the involvement of the petitioner in the alleged occurrence. Nothing incriminating, as alleged in the F.I.R, has been recovered from the conscious possession of the petitioner. Moreover, co-accused, Gauri Shankar Kumar has already been granted bail by a co-ordinate Bench of this Court vide order dated 30.01.2023 passed in Cr. Misc. No. 47490 of 2022 and three others co-accused having more or less similar allegations have already been granted bail vide Cr. Misc. No. 58716 of 2022, Cr. Misc. No. 61845 of 2022 and Cr. Misc. No.41495 of 2022 and the case of this petitioner is identical to that of the co-accused. He further submits that the police after investigation has submitted charge-sheet in this case against the petitioner. The petitioner is rotting in judicial custody since 24.04.2022.

Learned A.P.P. for the State on the basis of material available on record and the case diary vehemently opposed the prayer for bail of the petitioner and submits that the petitioner carries two more cases other than the present one.

Considering the facts and circumstances of the case, let the, above named, petitioner 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 learned Additional District



Judge-VII, Saharsa in connection with Nauhata P.S. Case No. 61 of 2022 with the following conditions:-

(1) 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/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be canceled by the Court below.

(2) 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.

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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