

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17757 of 2023

Arising Out of PS. Case No.-383 Year-2022 Thana- AGAMKUAN District- Patna

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Santosh Kumar @ Mukesh S/O Triyug Mahto R/O Mohalla-Mahatma Gandhi
Nagar, P.S- Agamkuan, Distt.- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shivjee Singh, Advocate

For the Opposite Party/s : Mr. Raj Kishor Singh, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 16-08-2023 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
03.09.2022 in connection with S. Tr. No. 48 of 2023 arising out
of Agamkuan P.S. Case No. 383 of 2022, F.I.R. dated
01.06.2022 for the offences punishable under Sections 302,
120B/34 of the Indian Penal Code but the police have submitted
the charge sheet under Section 302, 120B/34 of the Indian Penal
Code and Section 27 of the Arms Act.

4. According to prosecution case, the husband of the
informant was murdered and she named two persons in the F.I.R



apart from an unknown person. The name of the petitioner came up on the basis of the confessional statement of the co-accused person.

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, Bablu Kumar @ Rathaur @ Luvkush and he confessed that the petitioner along with other accused persons have committed the murder of the husband of the informant. He further submits that except the confessional statement of the co-accused, no other material has come during investigation to suggest the involvement of the petitioner in the present occurrence. He further submits that the police after investigation submitted the charge sheet against the petitioner. He further submits that similarly situated, co-accused, namely, Dharmendra Kumar Mahto @ Dhara @ Raju @ Mukesh Mahto has been granted bail by a co-ordinate Bench of this Court vide order dated 23.05.2023 passed in Cr. Misc. No. 25701 of 2023. The petitioner is in custody since 03.09.2022.

6. The learned Additional Public Prosecutor has



vehemently opposed the prayer for bail of the petitioner on the ground that petitioner carries one criminal antecedent other than the present one but fairly submits on the basis of paragraph 3 of the bail petition that the petitioner is on bail in the said case.

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 Additional Sessions Judge, Patna City, Patna in connection with S. Tr. No. 48 of 2023 arising out of Agamkuan P.S. Case No. 383 of 2022, 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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