

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20835 of 2023

Arising Out of PS. Case No.-342 Year-2020 Thana- DALSINGHSARAI District- Samastipur

Md. Naushad @ Naushe @ Md. Moiej Alam @ Md. Mouje Alam Son of Md.
Parwez Alam @ Md. Prwez Alam @ Phoolo R/V- Chaknawada P.s-
Dalsinghsarai Dist- Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mahendra Pratap, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 26-04-2023 Heard the parties.

The petitioner is in custody since 17.01.2022 in connection with S. Tr. No. 564 of 2022 arising out of Dalsingsarai P.S. Case No. 342 of 2020 under sections 341, 323, 324, 307, 302, 452, 34 of the Indian Penal Code and Section 27 of the Arms Act.

The prosecution story, in brief, is that the informant, Pramila Devi, is alleged to have given a fardbeyan before SHO, Dalsinghsarai Police Station on 14.11.2020 at Sub-Divisional Hospital, Dalsinghsarai, Samastipur which was recorded and on the basis which Dalsinghsarai P.S. Case No. 342 of 2020 has been instituted against unknown person;

(ii) it has further been alleged by the prosecution



that on 14.11.2021 at about 7:30 evening, the informant namely Pramila Devi with her younger sister Puja Kumari, son Asmit Kumar and daughter Kushboo Kumari, Ansu Kumari, Abhilasha Kumari were watching T.V. in her house and the mother of informant namely Ahilia Devi was sleeping after having dinner while the informant's sister with her husband were in another room. In the meantime five unknown persons armed with pistol entered into the house of the informant and started assaulting them;

(iii) the further allegation is that sister of the accused also opened fire which caused injury in the abdomen of the sister of informant namely Khushboo Kumari who fell down on ground. Further, the son of informant namely Asmit Kumar too also assaulted by butt of pistol causing severe injury on his head;

(iv) it has further been alleged that on 'hulla' raised by Rakesh Kumar, husband of Puja Kumari, other family member and villagers came there then all the miscreants fled away to ward east on the back of river. All the injureds were taken to Sub-Divisional Hospital Dalsinghsarai where mother of informant died during the course of treatment.

Earlier the case was rejected on 6.9.2022.



Once again prayer for bail was made in which it was stated in para-11 that the co-accuseds namely Md. Tarique Ishteyaque @ Mejar (in Cr. Misc. No. 30504 of 2022), Praduman Mahto @ Praduman Kumar @ Pradum Mahto (in Cr. Misc. No. 53062 of 2022) and Ravi Kumar (in Cr. Misc. No. 55454 of 2022) were released on bail.

Having gone through the aforesaid order dated 27.2.2022 passed by a coordinate bench, this Court finds that one of the grounds for their release was that this petitioner has already been enlarged on bail on 6.9.2022 in Cr. Misc. No. 25268 of 2022 when on the other hand actually the bail of the present petitioner was rejected on that day.

In the aforesaid circumstance, a report was called for on the stage of the trial as also whether the said accused persons managed to get the release order and out of on bail despite wrong averment made in the bail application.

As per the report vide letter no. 190/2023 dated 13.4.2023 sent by the learned Additional Sessions Judge, Dalsinghsarai, Samastipur, all the three accused persons were released on bail pursuant to the bail order.

Further, it was reported that the summons have been issued to the witnesses in the trial.



Having gone through the facts of the case, this Court does not find any new fact to give re-look to the present case and the bail application of the petitioner is accordingly rejected with a direction to the concerned Court to expedite the trial and conclude the same preferably within a period of one year.

The learned Sessions Judge, Samastipur should take note of the fact that although the bail order of the present petitioner was rejected on 6.9.2022; the other accused persons on the ground of wrong facts managed to get the bail order and overlooking the same, they were released on bail.

Let the order be sent to the learned Sessions Judge, Samastipur for his perusal and needful.

(Rajiv Roy, J)

Ravi/Kiran

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