

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22238 of 2023

Arising Out of PS. Case No.-243 Year-2021 Thana- BARAUNI District- Begusarai

Shivam Kumar, S/O Navin Singh, R/O Village- Bihat, Gurudaspur Tola, Ward
no. 18, Police Station- Barauni, Distt.- Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Bipin Kumar, Advocate
For the Opposite Party/s	:	Mr. Atul Chandra, APP
For the Informant	:	Mr. Shubhesh Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 26-04-2023 Heard Mr. Bipin Kumar, learned counsel appearing on
behalf of the petitioner, Mr. Shubhesh Pandey, learned counsel
for the informant and the learned APP for the State.

The petitioner seeks regular bail, who is in custody in
connection with Sessions Trial No. 81 of 2022 arising out of
Barauni (Chakiya) P.S. Case No. 243 of 2021 registered for the
offences punishable under Sections 386, 302, 379/34 of the
Indian Penal Code and Section 27 of the Arms Act.

Earlier after taking into consideration the fact that
specific allegation of demand of extortion has been levelled
against Bhushan Kumar and so far the allegation of firing is
concerned, the same has been attributed against Mukesh Kumar
and against this petitioner there is allegation of snatching of



golden chain, the prayer for bail of the petitioner was allowed by this Court on 13.07.2022.

However, having been released on bail, an application has been filed on behalf of the informant bringing on record that the antecedent of the petitioner has been suppressed which resulted into cancellation of the bail bond and he was taken into custody, thereafter, the petitioner again approached this Court in Cr. Misc. No. 9562 of 2023 and this Court having considered the fact, inter alia, the criminal antecedent of the petitioner has been suppressed, the prayer of the petitioner has been rejected giving liberty to renew his prayer for bail after framing of charge.

The petitioner now came before this Court with a submission that charges have already been framed on 20.03.2023 and he is ready to give undertaking that he will fully co-operate in the trial and will not indulge in intimidating the witnesses and the informant.

On the other hand, learned APP vehemently opposes the bail application and submits that the petitioner is active member of the gang, who with the common object and intention, killed the son of the informant in a broad day light, apart from the fact that the co-accused persons are indulged in



intimidating the witnesses which resulted into lodging of the FIR as well as *Sanha* before the concerned Police Station. He next submits that the release of the petitioner at this stage would create hamper in the fair trial, apart from the fact that the informant and the witnesses are apprehending untowards antecedent at the hands of the accused persons.

Learned APP also opposes the prayer.

Regard being had to the submissions made on behalf of the parties and considering the fact that other co-accused persons, having similar allegation, have been allowed the privilege of bail, apart from the fact that the FIR and the *Sanha* does not disclose the involvement of the petitioner in intimidating the witnesses and the informant, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge – V, Begusarai in connection with Sessions Trial No. 81 of 2022 arising out of Barauni (Chakia) P.S. Case No. 243 of 2021, 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.

It is needless to say that if the petitioner would be found indulged in intimidating the witnesses, the authorities/informant are at liberty to file an application for cancellation of bail. There would be further condition that the petitioner will ensure his attendance on first week of every month till one year in the concerned Police Station.

It is expected that the learned trial Court will take all



the necessary measures to conclude the trial, as early as possible.

(Harish Kumar, J)

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