

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25433 of 2023**

Arising Out of PS. Case No.-20 Year-2019 Thana- SHAMBHUGANJ District- Banka

Dayanand Saraswati, Son of Bishundeo Yadav @ Bishnudeo Yadav, Resident
of village - Manjhgay, P.S. - Shambhuganj, Distt. - Banka

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Praveen Kumar, Advocate
For the Opposite Party/s : Mr. M K Nirala, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 19-07-2023 At the outset, learned counsel for the petitioner seeks permission to make necessary correction in paragraph no. 6 of the bail petition.

2. Permission is accorded.

3. Heard Mr. Praveen Kumar, learned counsel appearing on behalf of the petitioner and the learned APP for the State.

4. The petitioner seeks regular bail in connection with Shambhuganj P.S. Case No. 20 of 2019 giving rise to Sessions Trial No. 267 of 2021 registered for the offences punishable under Sections 302 and 120(B)/34 of the Indian Penal Code and Section 27 of the Arms Act.

5. This is the second attempt made on behalf of the petitioner as earlier the prayer for bail of the petitioner was rejected by this Court vide order dated 18.08.2022 in Cr. Misc.



No. 25327 of 2022 after taking into consideration that specific accusation has been levelled against the petitioner and one 'Tiropati Yadav' that they allegedly fired upon the deceased resulting into his death, which fact has also been corroborated by the post mortem report.

6. Mr. Kumar, learned counsel for the petitioner fairly submits that earlier the prayer for bail of the petitioner was rejected on merit, however, he vehemently contended to persuade this Court that the informant is not an eyewitness to the alleged occurrence, inasmuch, as in the further statement he himself stated that three persons allegedly fired upon the deceased and only two bullet injuries have been found. False implication of the petitioner cannot be ruled out as all the brothers of the petitioner and their father, have also been made accused in this case, showing them as assailant. A plea of alibi, on the strength of certain documentary evidence, has also been taken on behalf of the petitioner that he was not even present at the place of occurrence. He next submitted that though the trial was commenced in the year 2021, but even after lapse of two years, out of nine charge-sheet witnesses only one witness has been examined, which fact has also been fortified by the status report submitted by the learned trial Court. He next submitted



that the petitioner is in incarceration since 13.09.2021 and he is ready to give undertaking that he will remain present on each and every date of the trial and will not indulge in tampering with the evidence or intimidating the witnesses.

7. On the other hand, learned APP for the State vehemently opposes the bail application and submits that the petitioner is one of the assailant and the witnesses have also supported the prosecution case.

8. Regard being had to the submissions made on behalf of the parties and taking into consideration the fact that till date only one witness has been examined and there is no likelihood of conclusion of trial in near future, apart from the fact that the contention of the petitioner also finds substance as the informant in his further statement exaggerated his allegation that three persons, all sons of Bishundeo Yadav @ Bishnudeo Yadav, have fired upon the deceased and the entire prosecution case is based in the background of admitted enmity between the parties, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-1, Banka in connection with Shambhuganj P.S. Case No. 20 of 2019 giving rise to



Sessions Trial No. 267 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.

(Harish Kumar, J)

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