

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25356 of 2023

Arising Out of PS. Case No.-5 Year-2011 Thana- PAKRIDAYAL District- East Champaran

Md. Mustak Miya @ Mustak @ Md. Mustak Mian Son Of Sarfuddin Miya
Laxman Das R/O Village- Pakaridayal Ward No.6, P.S.- Pakaridayal, District-
East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Abhishek Kumar, Advocate

For the Opposite Party/s : Mr. Atul Chandra, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 23-05-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

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.

Petitioner seeks bail who is in custody since
22.12.2022 in connection with Pakaridayal P.S. Case No. 05 of
2011, F.I.R. dated 10.02.2021 for the offences punishable
under Sections 147, 148, 149, 341, 323, 435 and 427 of the
Indian Penal Code, Section 27 of the Arms Act and Section 17
of Criminal Law Amendment Act.

According to prosecution case, 15-20 unknown
persons stopped the truck of the informant loaded with stone



and set the said truck on fire. It is further alleged that the said unknown persons were armed with weapon and threatened informant to flee away from the place of occurrence failing which he will be murdered.

Learned counsel for the petitioner submits that petitioner 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 on the basis of confessional statement of co-accused persons, namely, Baliram Sashani and Md. Samsul and thereafter, the self confessional statement of the petitioner. He further submits that it appears from the F.I.R. that nothing has been recovered from the possession of the house of the petitioner and till date no T.I.P. has been conducted by the prosecution. He further submits that except the confessional statement of the co-accused persons and self confessional statement of the petitioner, no cogent 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, Bigan Das @ Bigan Ji has been granted bail by a co-ordinate Bench of this Court vide order dated 22.01.2014 passed



in Cr. Misc. No. 27870 of 2013 and another co-accused, namely, Amlesh Sah and Baliram Sahani have been granted bail by a co-ordinate Bench of this Court vide order dated 04.07.2012 passed in Cr. Misc. No. 22449 of 2012. The petitioner is in custody since 22.12.2022.

The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioner on the ground that petitioner carries 1 criminal antecedent other than the present one but fairly submits that the petitioner is on bail in the said case.

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 Sub Divisional Judicial Magistrate, Sikrahana at Motihari, East Champaran in connection with Pakaridayal P.S. Case No. 05 of 2011, subject to 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 absence on two consecutive dates without sufficient reason, his bail



bond shall be cancelled 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.

3. 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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