

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24351 of 2023

Arising Out of PS. Case No.-235 Year-2021 Thana- SONEPUR District- Saran

Sunil Kumar Son of Bachchu Rai @ Bachchu Lal Yadav R/O Village-
Parmanandpur Pokhara Murthan, P.S.- Sonepur, District- Saran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Vasant Vikas, Advocate Mr. Ajay Kumar Tiwary, Advocate
For the Opposite Party/s	:	Mr. Syed Mojibur Rahman, APP Mr. Vikramdeo Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

3 10-05-2023 Heard learned counsel for the parties.

The petitioner has renewed his prayer for bail in connection with Sonepur P.S. Case no. 235 of 2021 registered under sections 302, 147, 148, 149 and 120B of the Indian Penal Code and section 27 of the Arms Act to which section 120B of the Indian Penal Code was added subsequently.

As per the prosecution case, while the informant had gone out with his father it is stated that 12-14 persons on 4-5 motorcycles reached there variously armed and as a result of indiscriminate firing by Jamwant Rai, Vijay Rai, Abhimanyu Rai, Bhushan Rai, Binod Rai, Rakesh Kumar, Suman Kumar and the petitioner Sunil Kumar, his father died.

The informant states that he can recognize the other



accused persons on seeing them again. It is further stated that first shot was fired by Jamwant Rai who said that no person should escape alive. After having sustained gunshot injury, the father of the informant attempted to escape but as a result of indiscriminate firing resorted to by Vijay Rai and Abhimanyu Rai, he could not escape. The other accused persons had surrounded him. The informant states that as a result of criminal conspiracy of all the accused persons he died. While escaping Bhushan Rai, Ashok Rai and Rakesh Kumar escaped on their motorcycles while resorting to firing.

Learned counsel for the petitioner submits that the earlier prayer for bail of the petitioner was allowed by order dated 8.4.2022 (Annexure-1) passed in Cr. Misc. No.53176 of 2021, however, in the appeal preferred by the informant Vikash Kumar, by order dated 17.2.2023 (Annexure-2) passed in Cr. Appeal arising out of SLP (Crl) No.8003 of 2022 by the Hon'ble Supreme Court the order granting bail was set aside and the petitioner herein was directed to surrender within a period of three weeks. As directed the petitioner surrendered within the time. It is submitted that subsequent to his surrender on 6.3.2023, the case has been committed to the Court of Sessions and is pending for hearing on framing of charge. Thus it is



submitted that in view of the observation of the Hon'ble Supreme Court in its order dated 17.2.2023, he be enlarged on bail.

The application for bail is opposed by learned APP appearing for the State and learned counsel for the informant.

It is submitted by learned counsel for the informant that the petitioner is amongst the assailant of the deceased and is named in the FIR.

Having heard learned counsel for the parties and taking into consideration the allegations in the FIR it transpires that the petitioner is named in the FIR amongst the accused persons who are said to have resorted to indiscriminate firing leading to death of the informant's father. It further transpires that the earlier order dated 8.4.2022 passed by this Court granting bail to the petitioner was set aside by order dated 17.2.2023 passed by Hon'ble the Supreme Court giving certain observations.

A report was called for from the learned trial Court. As per the report received contained in letter no.139 dated 17.4.2023 of the Incharge 4th Additional District and Sessions Judge, Saran at Chapra, the case is fixed on 4.5.2023 for hearing on framing of charge.



The petitioner was earlier in custody from 26.7.2021 till he was released from custody pursuant to grant of bail vide order dated 8.4.2022. Subsequently on having again surrendered, he is in custody since 6.3.2023.

In the facts and circumstances of the case, this Court is of the opinion that there being no change in the circumstance since the order dated 17.2.2023 passed by the Hon’ble Supreme Court, the petitioner has not made out any case for grant of bail and as such the same is rejected.

(Partha Sarthy, J)

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