

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25710 of 2023

Arising Out of PS. Case No.-1049 Year-2022 Thana- HAJIPUR SADAR District- Vaishali

Pawan Rai S/O Late Mahavir Rai Resident of Village- Chakaima Chaknoor,
P.S.- Sadar Hajipur, District- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shivjee Singh, Advocate

For the Opposite Party/s : Mr. Ram Anurag Singh, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 23-05-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. In the present case, the petitioner seeks bail in connection with Hajipur Sadar P.S. Case No. 1049 of 2022 registered on 25.12.2022 for the alleged offences under Sections 302, 120B of the Indian Penal Code and Section 27 of the Arms Act.

3. As per prosecution case, the husband of the informant was shot dead and the informant named co-accused Kalam Rai and Jhulan Rai @ Arjun Rai whom she saw fleeing away from the spot brandishing pistol. The informant further named the petitioner and co-accused Dabloo Rai, the persons who were having previous enmity with her husband and they committed the crime in conspiracy with each other.

4. Learned counsel for the petitioner submits that the



petitioner is innocent and has been falsely implicated in this case. No occurrence as alleged has ever taken place. The petitioner was arrested from the house on the very next day of alleged occurrence which shows the innocent mind of the petitioner. If he were guilty, he would have fled away from his house. There is no material with regard to involvement of the petitioner and he is said to be a conspirator but no material has come during investigation to connect the petitioner with the offence as alleged except the suspicion of informant. The police after investigation submitted final form against co-accused Dabloo Rai. The petitioner is in custody since 27.12.2022 and charge sheet has been submitted. Learned counsel further submits that the petitioner is accused in five other cases but he has been acquitted in three such cases and he is on bail in remaining two cases.

5. Learned APP opposes the prayer for bail submitting that the petitioner is a habitual offender and accused in five other cases.

6. Having regard to the facts and circumstance and submissions made on behalf of the parties and considering the fact that there is no specific allegation to connect the petitioner with the offence as alleged and further considering period of custody of the petitioner and submission of charge-sheet, the



petitioner above named is directed to be released on bail on furnishing bail bonds of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Vaishali at Hajipur/concerned court in connection with Hajipur Sadar P.S. Case No. 1049 of 2022, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions :

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bonds of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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