

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29530 of 2023

Arising Out of PS. Case No.-759 Year-2022 Thana- KATIHAR NAGAR District- Katihar

MD. NAUSHAD SON OF MD. JALIM R/O VILLAGE- LADAKANIYA
TOLA, AZADNAGAR, P.S.- KATIHAR NAGAR, DISTRICT- KATIHAR

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vaishnavi Singh

For the Opposite Party/s : Mr.Binod Kumar

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

4 14-06-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks bail in connection with Sessions
Trial No. 126 of 2023 arising out of Katihar Nagar P.S. Case No.
759 of 2022 registered for the offences punishable under Sections
302/34 of the Indian Penal Code and Sections 27 of the Arms Act.

As per prosecution case, informant's elder son went
for a walk towards Bhagwan Chowk and when he did not return
home till late night, informant alongwith his another son started
searching him. When they reached at Channadih, they saw that the
petitioner and others were quarreling and abusing with informant's
elder son. Thereafter, informant told his elder son to go home and
when informant's elder son started moving, co-accused Mazhar Ali
@ Khusboo fired upon the head of the informant's elder son as a



result of which he sustained injury and fell down. It is further alleged that petitioner and others also fired upon the informant and his another son but they saved themselves by lying on the ground. On hulla, local people gathered there and informant's elder son was taken to Sadar hospital where doctor declared him dead.

Learned counsel for the petitioner submits that there is no specific allegation of firing against the petitioner rather the specific allegation of firing is against co-accused Mazhar Ali @ Khusboo who fired upon the informant's elder son who succumbed to injury. He further submits that petitioner is not the assailant of the deceased. He further submits that petitioner is innocent and he has falsely been implicated in the present case. Moreover, petitioner is in custody since 16.11.2022 and bears criminal antecedent of one case which is not similar to the present case. Charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence.

The learned A.P.P. for the State opposes the prayer for bail of the petitioner.

Considering the facts and circumstances of the case, period of custody, charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence, argument advanced on behalf of both sides and also taking into consideration the material available on record, let the petitioner



above named be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge – V, Katihar in connection with Sessions Trial No. 126 of 2023 arising out of Katihar Nagar P.S. Case No. 759 of 2022, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

(iii) 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.

(Alok Kumar Pandey, J)

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