

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31187 of 2023

Arising Out of PS. Case No.-288 Year-2021 Thana- KOILWAR District- Bhojpur

RAM PRASAD RAI Son of Late Ramayan Rai Resident of Village -
Shaligram Singh Ka Tola, P.S.- Barhara, District - Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Surendra Kishore Thakur, Advocate

For the Opposite Party/s : Mr. Anand Kishore Choudhary, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 07-07-2023 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner is an accused in connection with Koilwar P.S. Case No. 288 of 2021 registered for the offences under sections 147, 148, 149 and 302 of the Indian Penal Code read with section 27 of the Arms Act lodged on 29.06.2021 by the informant, Ravi Kumar.

The prosecution case, in short, is that the informant namely Ravi Kumar has given *fardbeyan* before the Officer-in-charge of the concerned Police Station alleging therein that on 29.6.2021, when the informant and his uncle Bijendra Rai were planting the paddy, they got information that near the bank of Sone river in and the village Simariya, Bideshi Rai along with 15 persons are mining the sand illegally in his field thereafter the informant and his uncle went to the field and found that



Bideshi Rai, Anil Rai including the petitioner and others having armed variously are indulged in the illegal mining of the sand from their field. His uncle, Bijendra Rai protested and asked them not to do mining from his field. Thereafter Bideshi Rai started abusing and directed them to leave. In the meantime, on the provocation of other co-accused, Anil Rai fired upon the uncle of the informant which hit in his abdomen who fell down. On the alarm, as the villagers came, the accused persons fled away.

The informant has further alleged that his uncle was working at Kolkata as driver and due to lockdown he was in the village. The informant has further alleged that with the help of the villagers, the informant's uncle was brought to the Hospital where he was declared dead. Accordingly, the FIR.

It has been contended by learned Counsel for the petitioner that main allegation is against Anil Rai of opening fire which hit the uncle of the informant, Bijendra Rai in the abdomen causing his death. The further contention is that specific allegation is against other co-accused, Bideshi Rai and Kalmu Rai of firing on the petitioner, while he had no role to play in the matter, was implicated and thus is in custody since 16.01.2023 (as recorded by the learned Session Judge).



It is his further submission that some of the co-accuseds have since been granted bail vide Cr. Misc. No. 16319 of 2022 (Ramnath Bind, Bhagirath Bind and Fani Bind), Cr. Misc. No. 12753 (Gan Rai @ Dharma Nath Kumar Rai).

Learned APP for the State, on the other hand, opposes the prayer for bail.

Considering the aforesaid facts that the specific allegation is against Anil Rai of opening fire causing injury to the Bijendra Rai which proved fatal and further other similarly placed co-accuseds have since been granted bail, as stated above, this Court is inclined to extend him privilege of bail.

Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of like amount each to the satisfaction of the learned Chief Judicial Magistrate, Bhojpur, Ara in connection with Koilwar P.S. Case No. 288 of 2021, subject to the following conditions:-

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his *bona fide*;

(ii) the petitioner shall appear on each and every date before the Trial court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail



bond by the Trial court itself;

(iii) the petitioner shall appear before the concerned police station every month for next one year to mark attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of his bail bonds;

(v) the petitioner shall desist from committing any criminal offence again failing which the State shall be at liberty to take steps for cancellation of the bail bonds.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

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