

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34322 of 2023

Arising Out of PS. Case No.-154 Year-2022 Thana- KUNDWACHAINPUR District- East
Champaran

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1. Aakash Kumar @ Rocky @ Aakash Ram Son of Badri Ram Resident of Village - Hansanpur, P.S.- Kundwa Chainpur, District - East Champaran, Motihari.
 2. Rupesh Kumar @ Rupesh Ram Son of Rameshwar Ram Resident of Village - Hansanpur, P.S.- Kundwa Chainpur, District - East Champaran, Motihari.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sharda Nand Mishra, Advocate
For the Opposite Party/s : Ms. Rina Sinha, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 25-07-2023 Heard learned counsel appearing on behalf of the
petitioners and learned counsel appearing on behalf of the State.

2. The petitioners seek bail in connection with
Kundwa Chainpur P.S. Case No. 154 of 2022 registered for the
offence under Sections 302, 120-B, 34 of the Indian Penal Code.

3. The accused/petitioners are not named in the F.I.R.
and are in custody since 08.08.2022.

4. The allegation against the petitioners is to commit



murder of brother of the informant/injured alongwith other unknown co-accused persons by causing firearm injuries, where reason of occurrence is not explained through F.I.R.

5. Learned counsel appearing on behalf of the petitioners submitted that name of petitioners surfaced during the course of investigation on the basis of self-confessional statement, as they found roaming away from their house. It is submitted that to make confessional statement relevant, police planted two pistols which alleged to be shown recovered from the hut belongs to these petitioners, where seizure list also not supported by independent witnesses, rather by police personnels. It is submitted that from chemical analysis report it was only ascertained that alleged firearms were in functional condition but as to established a, *prima facie*, case and to connect petitioners with present occurrence it can not be said a convincing chain of circumstances and mere on the ground of recovery of firearms out of confessional statement of petitioners, they cannot be connected with present occurrence of murder. It is submitted that after 15 days of occurrence informant moved an application before police, specifically, naming six persons, where name of these petitioners were missing, who are of clean antecedent. It is submitted that as co-



accused Mukesh Kumar was named thereof, therefore, his prayer for regular bail was rejected through Cr. Misc. No. 22719 of 2023 vide order dated 17.05.2023 and same is of no bearing over the merit as available to these petitioners, who are not named thereof. While travelling over the argument learned counsel submitted that petitioners were not put on TIP (Test Identification Parade), as yet. While concluding the argument, it has been submitted that investigation of this case is completed, for which charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

6. Learned APP, duly assisted by learned counsel, Mr. Sumit Jha appearing on behalf of the informant, while opposing the prayer of bail submitted that petitioners were actively participated in the occurrence and arms used for present occurrence was recovered on the basis of confession of these petitioners.

7. Considering the facts and circumstances as mentioned above and by taking note of the fact as implication of these petitioners is only on the basis of recovery of firearms in furtherance of their confessional statement, who are of clean antecedent coupled with the fact that charge-sheet has already submitted, where petitioners are in custody since 08.08.2022



accordingly, both petitioners, above named, are directed to be released on bail in connection with Kundwa Chainpur P.S. Case No. 154 of 2022 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand only) with two sureties of the like amount each to the satisfaction of learned A.D.J.-21, Motihari, East Champaran/concerned court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C. with further conditions:

“(i) That the petitioner shall not involve in similar nature of offence till the conclusion of trial, failing which, the State shall be at liberty to move before the learned Trial Court itself for the cancellation of bail bond of the petitioner.

(ii) That accused/petitioner shall cooperate in the trial.

(iii) That accused/petitioner shall be physically present on each and every date before the learned Trial Court till the conclusion of trial and exemption from physical appearance



be allowed by the learned Trial Court,
only on medical ground of the
petitioner duly supported by the
documents.

(iv) That one of the bailors
shall be deponent of the present bail
petition.”

(Chandra Shekhar Jha, J)

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