

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34530 of 2023

Arising Out of PS. Case No.-33 Year-2013 Thana- CHANAN District- Lakhisarai

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MITHU KODA S/o- LATE KARM KODA Village- Kumartari Ps- Barhat
Dist- Jamui

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mukesh Kumar, Advocate

For the Opposite Party/s : Mr. Binod Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 18-09-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. Petitioner seeks bail, who is in custody since 20.12.2021, in connection with Sessions Trial No. 265 of 2022 arising out of Chanan P.S. Case No. 33 of 2013, F.I.R. dated 14.06.2013 registered for the offences punishable under Sections 147, 148, 149, 302, 307, 427, 120(B) of the Indian Penal Code, Section 27 of the Arms Act, Sections 3/4 Explosive Substances Act, Sections 150, 151, 152 of the Railway Act and Sections 16/18/18(B)/20 of the UAP Act

3. The F.I.R. has been lodged against 100 unknown extremists who continuously firing in the train and when the train left Jamui they saw that their Jawan were killed and snatched their rifle and injured the Guard also.



4. Learned counsel for the petitioner submits that the petitioner is innocent and he has been falsely implicated in the present case and as per allegation in the F.I.R. that 100 unknown extremists have committed the crime in question. He further submits that the petitioner is not named in the F.I.R. and the name of the petitioner has been transpired during investigation on the basis of confessional statement of co-accused person namely Birendra Kora and nothing has been recovered from the conscious possession or the house of the petitioner and till date no test identification parade was conducted by the prosecution and only on the basis of previous criminal antecedent of the petitioner the petitioner has been falsely implicated in the present case and except the confessional statement of co-accused person no other material has come during investigation to suggest the involvement of the petitioner in the present occurrence. He further submits that co-accused person namely Birendra Kora who disclosed the name of the petitioner has been granted bail by a Coordinate Bench of this Court vide order dated 20.01.2016 passed in Cr. Misc. No. 54764 of 2015 and the police after investigation submitted chargesheet against the petitioner and the petitioner is in custody since 20.12.2021. He further submits that a number of other co-



accused persons have been granted bail by a different Coordinate Benches of this Hon'ble Court which is as follows:

(i) Co-accused Dinesh Yadav has been granted bail by a Coordinate Bench of this Court vide order dated 06.04.2015 passed in Cr. Misc. No. 51504 of 2014.

(ii) Co-accused Karelal Kora has been granted bail by a Coordinate Bench of this Court vide order dated 25.06.2015 passed in Cr. Misc. No. 10900 of 2015.

(iii) Co-accused Sanjay Sharma has been granted bail by a Coordinate Bench of this Court vide order dated 25.06.2015 passed in Cr. Misc. No. 15496 of 2015.

(iv) Co-accused Babloo Tuddu has been granted bail by a Coordinate Bench of this Court vide order dated 04.02.2016 passed in Cr. Misc. No. 50388 of 2015.

(v) Co-accused Pankaj Yadav has been granted bail by a Coordinate Bench of this Court vide order dated 24.04.2018 passed in Cr. Misc. No. 10149 of 2018.

5. The learned Additional Public Prosecutor for the State has vehemently opposed the prayer for bail of the petitioner on the ground that the petitioner carries eight more cases other than the present one but fairly submits that as per report of the learned Trial Court, no witness has been examined



by the prosecution as yet.

6. Learned counsel referring the aforesaid report that in view of the report of the learned Court Trial that the trial is not concluded in near future and the petitioner is in custody since 20.12.2021.

7. Considering the facts and circumstances of the case that the petitioner is not named in the F.I.R. and other similar situated co-accused persons have been granted bail by a different Co-ordinate Benches of this Hon'ble Court as well as report of the learned Trial Court and the period of custody , 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 District & Sessions Judge 3rd, Lakhisarai in connection with Sessions Trial No. 265 of 2022 arising out of Chanan P.S. Case No. 33 of 2013, subject to the following conditions :-

(1) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.



(2) If the petitioner tampers with the evidence or the witness, in that case, the prosecution will be at liberty to move for cancellation of bail.

(3) And, further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his criminal antecedents, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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