

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34238 of 2022

Arising Out of PS. Case No.-846 Year-2021 Thana- BHAGALPUR KOTWALI District-
Bhagalpur

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CHOTU YADAV @ VISHAL KUMAR Son of Pappu Yadav Resident of
Mohalla Adarsh Colony, Surkhikal Bhatta, P.S.- Barari, District- Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar
For the Opposite Party/s : Mr.Ajit Kumar

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

4 20-01-2023 Let the defect(s), as pointed out by the office, be

removed within a period of four weeks from today.

Heard learned counsel for the petitioner and

learned A.P.P. for the State.

The petitioner seeks bail in connection with

Kotwali (Barari) P.S. Case No. 846 of 2021 registered for the

offences punishable under Sections 302/34 of the I.P.C. and

Section 27 of the Arms Act.

As per prosecution case, it is alleged that

informant's brother has shot dead by petitioner and others.

Learned counsel for the petitioner submits that

petitioner is in custody since 22.12.2021. Petitioner bears no

criminal antecedent. Charge sheet has already been submitted in



the case and there is no likelihood of tampering with the prosecution evidence. Learned counsel further submits that petitioner is quite innocent and has committed no offence as alleged in the F.I.R. There is no eye witness to the alleged occurrence. Except suspicion, there is nothing on record to demonstrate the complicity of the present petitioner with the alleged occurrence. Learned counsel further submits that co-accused Mithun Yadav has already been granted bail vide Cr. Misc. No. 38596 of 2022 by a co-ordinate bench of this Court and the case of present petitioner stands on better footing as petitioner bears no criminal antecedent.

The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner as petitioner is named in the F.I.R. and it is alleged against him that he is one of the persons who have participated in commission of murder of informant's brother.

Considering the facts and circumstances of the case as well as period of custody, charge-sheet has already been submitted and there is no likelihood of tampering with the prosecution evidence, keeping in view clean antecedent of the petitioner, on similar allegation co-accused has already been granted bail and on the principle of parity I have no reason to



deny the bail of the present petitioner, argument advanced on behalf of the parties 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 Chief Judicial Magistrate, Bhagalpur in connection with Kotwali (Barari) P.S. Case No. 846 of 2021, 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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