

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36491 of 2022

Arising Out of PS. Case No.-455 Year-2021 Thana- BUXAR MUFFSIL District- Buxar

DILIP KUMAR @ DILIP YADAV @ CHHOTU YADAV Son of Late
Basropan Singh Resident of Village - Bairiya, P.S.- Koran Sarai, District -
Buxar.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Saket Anand

For the Opposite Party/s : Mr.Ramesh Chandra

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

4 19-01-2023 Let the defect(s), as pointed out by the office, be
removed within a period of four weeks from today.

Supplementary affidavit has been filed on behalf of
the petitioner. Let it be kept on record.

Heard learned counsel for the petitioner and
learned A.P.P. for the State.

The petitioner seeks bail in connection with Buxar
(Mufassil) P.S. Case No. 455 of 2021 registered for the offences
punishable under Sections 302, 120(B), 34 of the Indian Penal
Code and Section 27 of the Arms Act.

As per prosecution case, informant's son has been
shot dead by co-accused Sushant Tiwary and others under
conspiracy.



Learned counsel for the petitioner submits that petitioner is not named in the FIR and his name has been surfaced in this case upon confessional statement of co-accused Vikash Kumar Yadav and Sumit Kumar who were also not named in the FIR. Except confessional statement, there is nothing on record to connect the present petitioner with the alleged occurrence. Learned counsel for the petitioner has submitted through supplementary affidavit that petitioner is in custody since 31.10.2013 in connection with Shahpur P.S. Case No. 171/2013 instituted for the offence under Sections 302/34 of the IPC and Section 27 of the Arms Act. He further submits that petitioner was in jail in connection with Shahpur P.S. Case No. 171/2013 when the present occurrence took place on 20.12.2021 and there is no question arising that petitioner has made any kind of conspiracy for committing the alleged occurrence at the relevant time. Moreover, on similar allegation co-accused Vikash Kumar Yadav has already been granted bail by the co-ordinate Bench of this Court and on the principle of parity the present petitioner also deserves bail. He further submits that petitioner has been remanded in the present case on 07.02.2022 from Shahpur P.S. Case No. 171/2013 and since then he is in custody in 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, co-accused Vikash Kumar Yadav on similar allegation has already been granted bail by the co-ordinate Bench of this Court, 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-XI, Buxar/concerned court in connection with Buxar (Mufassil) P.S. Case No. 455 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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