

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40505 of 2022**

Arising Out of PS. Case No.-121 Year-2021 Thana- PHULWARIYA District- Gopalganj

VIKASH PATEL @ LALU PATEL SON OF DINANATH PRASAD R/O
VILLAGE- BADHEYA, P.S.- PHULWARIYA, DISTRICT- GOPALGANJ

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Javed Aslam

For the Opposite Party/s : Mr.Uday Chand Prasad

**CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER**

3 23-01-2023 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 Phulwariya (Siripur O.P.) P.S. Case No. 121/2021 registered for the offences punishable under Sections 302/34 of the Indian Penal Code and Section 27 of the Arms Act, later on converted under Section 396 of the I.P.C., instituted on the report of one Manoj Kumar Gupta.

As per prosecution case, on 20.04.2021 the informant's father went to attend the Tilak Ceremony and at 7:35 P.M. he left the Tilak Ceremony. At about 9:00 P.M., the informant got information that in between Murar Bataraha



Temple and Petrol Pump some unknown criminal has committed murder of his father by firing.

Learned counsel for the petitioner submits that petitioner is innocent and has falsely been implicated in this case merely on suspicion. The petitioner is not named in the FIR. During course of investigation the name of petitioner surfaced in this case on the basis of confessional statement of co-accused, Amit Pandey. No incriminating article has been recovered from the conscious possession of the petitioner. Except confessional statement, there is nothing on record to demonstrate the complicity of the petitioner with the alleged occurrence. The petitioner is languishing in custody since 30.06.2021 and bears criminal antecedents of four cases out of which in one case he is on bail. Charge sheet has been submitted in this case and there is no likelihood of tampering with the prosecution evidence. On similar allegation co-accused, Nitish Kumar @ Nitesh Kumar @ Nehal has been granted bail by this Court vide Cr. Misc. No.3540/2022 and on similar allegation another co-accused, Biresh Yadav @ Viresh Yadav has also been granted bail by a co-ordinate Bench of this Court vide Cr. Misc. No.3540/2022 and the case of present petitioner stands on similar footing.



The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner.

Considering the facts and circumstances of the case, period of custody, co-accused have already been granted bail, charge sheet has already been submitted in this 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 **after framing of charge** on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate-1st Class, Gopalganj in connection with Phulwariya (Siripur O.P.) P.S. Case No. 121/2021, 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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