

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41268 of 2023

Arising Out of PS. Case No.-2 Year-2022 Thana- BARHARIA District- Siwan

ALAMGIR@ GIRI, Son Of Late Maruf Miyan, Resident Of Village-
Gausehata, P.S.- Barharia, Distt- Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Chandra Mohan Jha, Adv.
For the State	:	Dr. Indihar Kumari, APP
For the Informant	:	Mr. Pravin Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

- 2 19-07-2023 1. Heard learned counsel for the petitioner, learned counsel for the informant and learned APP for the State.
2. Petitioner seeks regular bail in connection with S.Tr. No. 201 of 2023 arising out of Barharia P.S. Case No. 02 of 2022, dated 02.01.2022 registered for the offences punishable under Sections 147, 148, 149, 341, 323, 325, 307, 302 and 120B of the Indian Penal Code.
3. This is second attempt of the petitioner to get the relief of regular bail after his earlier prayer was rejected by this Bench vide order dated 07.04.2023 passed in Cr. Misc. No. 4116 of 2023 preferred by this petitioner.
4. Learned counsel Mr. Chandra Mohan Jha, appearing for the petitioner submits that in the present matter,



similarly situated two co-accused persons namely, Sabir Ali @ Sakir Ali and Ishrat @ Ishrat Ali have been granted regular bail by a co-ordinate Bench of this Court vide joint order passed in Cr. Misc. Nos.26582 of 2022 and 31305 of 2022 and at the time of hearing of petitioner's earlier prayer for the same relief, it was contended by counsel appearing for the informant that the privilege of bail granted to the said co-accused persons has been challenged before this Court vide Cr. Misc. No. 23911 of 2023 and mainly considering the said aspect this Court did not allow the petitioner's earlier prayer for bail but in the present time the said Cr. Misc. No. 23911 of 2023 has been dismissed and petitioner's case stands on similar footing with the said co-accused persons. It is further submitted that the petitioner has been languishing in jail since 04.12.2022 and in the present time he is *Mukhiya* of the concerned *Panchayat*, owing to which he has been dragged in this case with malice intention and the informant is not the eye-witness of the alleged occurrence. It is further submitted that in order dated 07.04.2023 by which the petitioner's earlier prayer for bail was rejected, a liberty was given to the petitioner to renew his bail prayer after the framing of charge and now he has come again for the same relief as charges have been framed upon him on 03.05.2023 and in this



regard relevant ordersheet of the Trial Court has been annexed with the petition. It is further submitted that the main material witness of the prosecution namely, Seikh Alimullah has been examined.

5. Learned counsel Mr. Pravin Kumar appearing for the informant and learned APP Dr. Indihar Kumari, appearing for the State have vehemently opposed the prayer for bail.

6. Heard both the sides. Though, there is serious allegation against this petitioner and the instant matter relates to murder, however, considering the above new circumstances, particularly with regard to the framing of charge upon the petitioner as well as examination of main material prosecution witness which shows change in the stage of the petitioner's case, in my opinion, in the present circumstances, the petitioner deserves to a lenient approach of this Court. Accordingly, let the petitioner named-above be enlarged on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the concerned Court in connection with S.Tr. No. 201 of 2023 arising out of Barharia P.S. Case No. 02 of 2022 on the following conditions:-

(i) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the trial



Court and shall remain physically present as directed by the trial Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the trial Court.

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

(iii) One of the bailors shall be a close relative of the petitioner who has sworn affidavit in this miscellaneous petition.

(Shailendra Singh, J.)

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