

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41654 of 2023

Arising Out of PS. Case No.-351 Year-2022 Thana- KUSHESHWARASTHAN District-
Darbhanga

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Upendra Yadav @ Khalap Yadav @ Khalat Yadav, aged about 56 years, male,
S/o Late Raghunath Yadav, r/o Village- Tilkeshwar, P.S. Kusheshwar Asthan,
Dist. Darbhanga

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner : Mr. Viveka Nandsingh, Advocate
For the Opposite Party : Mr. Md. Mushtaque Alam, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

2 14-07-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner seeks bail in connection with
Kusheshwar Asthan P.S. Case No. 351 of 2022 dated
08.10.2022, instituted for the offence punishable under Sections
302 & 34 of the Indian Penal Code and Section 27 of the Arms
Act.

3. The prosecution case, in brief, is that on 07.10.2022
at about 07:00 pm, the petitioner along with other named co-
accused came to the informant's house and started
indiscriminate firing. Further, it is alleged that on the direction
of the petitioner and other co-accused, Shankar Yadav, one of
the accused persons fired gun-shot on the informant's son



(deceased) due to which, he died on spot.

4. Learned counsel for the petitioner submits that the petitioner is innocent and he has been falsely implicated in this case. From the perusal of the F.I.R., the only specific allegation against the petitioner and other co-accused Shankar Yadav is that they gave orders to kill the deceased. There is no eye-witness of the alleged occurrence. Further, it is submitted that another co-accused, namely, Anita Devi has already been granted bail *vide order dated 13.03.2023* passed in ***Criminal Miscellaneous No. 48 of 2023***. Lastly, it has been submitted that the petitioner is in custody since 24.03.2023, charge-sheet has been submitted in the case and he has three criminal cases against him.

5. Learned A.P.P. has opposed the prayer for bail of the petitioner.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, let the petitioner be released on bail upon furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Sub Divisional Judicial Magistrate, Biraul, Darbhanga in Kusheshwar Asthan P.S. Case No. 351 of 2022, subject to the following conditions:-

(i) Petitioner shall co-operate in the trial and



shall be properly represented on each and every date fixed by the Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

(ii) One of the bailors will be his own blood relation, preferably father, mother, brother, sister and or his wife.

(iii) The bailor shall also state on affidavit that he will inform the court concerned if the petitioner is made accused in any other case of similar nature after his release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of bail on ground of misuse.

(iv) 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.

(Khatim Reza, J)

Gaurav Kumar/-

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