

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45603 of 2023

Arising Out of PS. Case No.-49 Year-2023 Thana- ARA MUFFSIL District- Bhojpur

SHIBU KUMAR @ VICKY MALHOTRA SON OF SURANJEET SHAH
RESIDENT OF VILLAGE- SARAIYAN, PS- BARHARA KRISHNAGARH,
DISTT- BHOJPUR

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Manoj Kumar, Advocate
For the Informant	:	Mr. Rama Kant Singh, Advocate
For the Opposite Party/s	:	Mr. Aditya Narayan Singh.1, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 31-07-2023 Heard learned counsel for the petitioner, learned counsel appearing on behalf of the Informant and learned APP for the State.

2. Petitioner seeks bail, who is in custody since 26.04.2023, in connection with Ara Mufassil P.S. Case No. 49 of 2023, F.I.R. dated 31.01.2023 registered for the offences punishable under Sections 302, 307, 34 of the Indian Penal Code, and Sections 25(1-b)a, 26, 35, 27 of the Arms Act.

3. As per the prosecution case, four named accused persons along with some unknown persons opened fire on the informant and one Vindhyaachal Prasad was killed.

4. Learned counsel for the petitioner submits that the



petitioner has clean antecedent and he has been falsely implicated in the present case. He further submits that from perusal of the F.I.R. it appears that there is no specific allegation of any assault or overt act attributed against the petitioner rather there is general and omnibus allegation against all the accused persons including the petitioner. He further submits that it appears from the F.I.R. itself that there is admitted land dispute between the parties and due to dispute, the petitioner has been falsely implicated in the present case. He further submits that co-accused person namely Prince Singh has been granted bail by a Coordinate Bench of this court vide order dated 07.06.2023 passed in Cr. Misc. No. 29172 of 2023, another co-accused person namely Kamlesh Yadav has been granted bail by a Coordinate Bench of this Court vide order dated 25.05.2023 passed in Cr. Misc. No. 27921 of 2023 respectively. He further submits that the police after investigation submitted chargesheet against the petitioner and the petitioner is in custody since 26.04.2023.

5. The learned counsel appearing on behalf of the Informant as well as learned Additional Public Prosecutor for the State have vehemently opposed the prayer for bail of the petitioner, and submits that it has come during investigation that



co-accused has confessed in which he has stated that the petitioner was involved in the present occurrence.

6. Considering the facts and circumstances of the case, 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 A.C.J.M. 7th, Bhojpur at Ara in connection with Ara Mufassil P.S. Case No. 49 of 2023, subject to the following conditions :-

(1) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

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

(3) And, further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his criminal antecedents, the court below shall take step for cancellation of bail bond of the petitioner. However, the



acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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