

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.45693 of 2022**

Arising Out of PS. Case No.-98 Year-2020 Thana- GARDANIBAG District- Patna

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Dhiraj Kumar, Son of Butan Prasad @ Bhutan Prasad, R/O Mohalla- Chit  
Kohra, P.S.- Gardanibagh, District- Patna

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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**Appearance :**

For the Petitioner/s : Mr. Patanjali Rishi, Advocate

For the Opposite Party/s : Mr. Fahimuddin, APP

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**  
**ORAL ORDER**

4      12-07-2023                      Heard learned counsel for the petitioner and Mr.  
Fahimuddin, learned APP for the State.

By filing the present application, the petitioner has renewed his prayer for bail in connection with Gardanibagh P.S. Case No. 98 of 2020 registered for the offences punishable under Sections 25(1-b)a, 26, 35 of the Arms Act. He has five criminal antecedents and has remained in judicial custody since 28.02.2020.

Earlier his prayer for bail has been rejected twice by this Court, last being the order dated 08.12.2021 passed in Cr. Misc. No. 66305 of 2021.

Learned counsel for the petitioner submits that as per the allegation, the Investigating Officer had arrested this petitioner and the co-accused in connection with Gardanibagh P.S. Case No. 85 of 2020 dated 12.02.2020 registered under



Section 302/120B IPC and Section 27 of the Arms Act. In course of investigation of the said case, it is alleged that on the basis of the confessional statement of the petitioner, the Investigating Officer seized the arms and cartridges which were used in connection with the main case i.e. Gardanibagh P.S. Case No. 85 of 2020. It is alleged that from the kitchen situated on the ground floor of the house of the petitioner, police had recovered four pistols, 23 live cartridges and one empty cartridge.

Learned counsel submits that considering the aforesaid aspect of the matter, this Court refused to enlarge the petitioner on bail. This Court noticed that the petitioner had got five criminal antecedents.

Learned counsel submits that earlier the petitioner had been enlarged on bail in connection with Gardanibagh P.S. Case No. 85 of 2020 by a learned Co-ordinate Bench of this Court vide order dated 14.09.2021 passed in Cr. Misc. No. 14416 of 2021 and this was brought to the notice of this Court which is recorded in its order dated 08.12.2021.

It is submitted by filing a supplementary affidavit that the petitioner has been acquitted in Gardanibagh P.S. Case No. 85 of 2020. Copy of the judgment dated 08.05.2023 passed by



the learned trial court has been brought on record. It is submitted that the said case registered under Section 302/120B IPC and Section 27 of the Arms Act but in course of trial of the said case, the Investigating Officer did not produce the arms which were allegedly used in the said crime and had been recovered. It is, thus, submitted that it is a case of false implication of the petitioner and at this stage, when the petitioner has remained in incarceration for about three and half years and the trial has yet not begun as no prosecution witness has been examined so far, the petitioner deserves privilege of bail. It is pointed out that in fact in the main case, the informant did not appear to support the prosecution case.

Learned APP for the State has though opposed the prayer for bail of the petitioner but does not dispute that the petitioner has been acquitted in Gardanibagh P.S. Case No. 85 of 2020 and in the said case, even the arms which were allegedly used in murder and the recovery was shown from the house of the petitioner were not produced and proved.

In the given facts and circumstances of the case, considering the aforesaid aspects of the matter, the developments in which the petitioner has been acquitted and the prosecution in the main case failed to produce the arms and



further that the petitioner has remained in custody for about three and half years but the prosecution evidence has still not begun, this Court directs that the petitioner above named be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-XIV, Patna in connection with Gardanibagh P.S. Case No. 98 of 2020, subject to the condition as laid down under Section 437 (3) Cr.P.C.

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 antecedent, the court below shall take steps 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.

And further condition that henceforth once in every three months the petitioner shall mark his attendance before the Officer Incharge of Gardanibagh police station in the District of Patna and shall keep on furnishing his complete whereabouts and mobile number to the Officer Incharge. If he is required to go outside the jurisdiction of the police station in connection



with any employment etc. then also he will furnish his address and other information to the Officer Incharge. Non-compliance with this condition shall be reported by the Officer Incharge of Gardanibagh police station to the learned court below and steps shall be taken for cancellation of the bail bond of the petitioner.

The application stands allowed.

Let a copy of this order be sent to the Sr. Superintendent of Police, Patna for necessary instruction to the Officer Incharge of the concerned Police Station.

**(Rajeev Ranjan Prasad, J)**

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