

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51774 of 2023

Arising Out of PS. Case No.-87 Year-2021 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

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SHASHI MISHRA @ SHASHI BHUSHAN MISHRA Son of Late Ram
Nandan Mishra Resident of village - Bara Shankar Missir Tola, P.S. - Patahi,
Distt. - East Champaran

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. SANJAY TIWARI Son of Ramadhar Tiwari Resident of village - Bara
Shankar, P.S. - Patahi, Distt. - East Champaran

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sunil Kumar No.Iii
For the Opposite Party/s : Mr.Dr.Mrityunjaya Kr.Gautam

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

6 19-12-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner seeks bail in connection with
Complaint Case No. C87 of 2021, Trial No. 44 of 2022 arising out
of Patahi P.S. Case No. 167 of 2018 registered for the offences
punishable under Sections 302, 376, 201 and 120B of the Indian
Penal Code and Section 6/8 of the POCSO Act.

3. As per prosecution case, the name of present
petitioner has surfaced upon protest petition that there is allegation
that he has erased the blood stain lying on the surface of floor.

4. Learned counsel for the petitioner submits that
neither petitioner is named in F.I.R. nor chargesheet has been



submitted against him. The name of the petitioner has been surfaced in this case on 02.12.2019 on the basis of protest petition filed by Sanjay Tiwari (informant). He further submits that on the basis of protest petition, cognizance has also been taken against the petitioner and others under Sections 302, 376, 201, 120(B), 34 of the I.P.C. and Section 6, 8 of the POCSO Act. He further submits that F.I.R. named accused Golu Singh against whom chargesheet has been submitted, has already been granted bail by the co-ordinate Bench of this Court vide Cr. Misc. No. 45774 of 2019 and co-accused Santosh Kumar @ Santosh Tiwari has been granted anticipatory bail by the co-ordinate Bench of this Court vide Cr. Misc.No. 34356 of 2023 and so far as the allegation of the present petitioner is concerned, the same stands on better footing in comparison to above mentioned co-accused persons. Petitioner is in custody since 27.04.2023 and bears criminal antecedent of three cases.

5. The learned counsel for the Informant and learned A.P.P. for the State vehemently opposed the prayer for bail of the petitioner by submitting that he is one of the persons who has participated in the alleged occurrence.

6. Considering the facts and circumstances of the case, period of custody, co-accused has already been granted bail, 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 on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge 7th cum Special Judge POCSO Act Motihari, East Champaran in connection with Complaint Case No. 87 of 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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