

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52574 of 2023

Arising Out of PS. Case No.-64 Year-2019 Thana- BASANHI District- Saharsa

PREMLAL YADAV @ AALO YADAV S/O MALLAR YADAV R/O
VILLAGE- BALAITHA, PS. BASNAHI, DIST. SAHARSA

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shiva Shankar Sharma

For the Opposite Party/s : Mr.Sanjay Kumar Tiwary

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

4 01-12-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner seeks bail in connection with Basnahi P.S. Case No. 64 of 2019 registered for the offences punishable under Sections 302 and 120B and 34 of the Indian Penal Code read with Section 27 of the Arms Act.

3. As per prosecution case, it is alleged that co-accused Man Kishore Yadav, Dilraj Yadav and Praveen Yadav are said to have fired upon informant's son as a result of which he sustained gun shot injury and in the way to the hospital, informant's son died.

4. Learned counsel for the petitioner submits that petitioner is not named in F.I.R. The name of the petitioner has been transpired in this case for the first time on 14.08.2019 i.e.



after one month and twenty days of the occurrence in the statement of Ganesh Mandal and Saryug Mandal recorded at para 51 and 52 of the case diary respectively. He further submits that none of the eye-witness has stated that the petitioner has participated in the alleged occurrence in any manner. Learned counsel for the petitioner submits that co-accused Surendra Yadav @ Surendra Prasad Yadav who is named in F.I.R., has already been granted bail by the co-ordinate Bench of this Court vide Cr. Misc. No. 30277 2020 and the case of present petitioner stands on better footing keeping in view that petitioner is not named in F.I.R. as his name has come into fore after one month and twenty days. Petitioner is innocent and has falsely been implicated in the present case. Petitioner is in custody since 24.02.2023 and bears criminal antecedent of six cases out of which petitioner has been acquitted in two cases and he is on bail in other four cases. Charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence.

5. The learned A.P.P. for the State opposes the prayer for bail of the petitioner.

6. Considering the facts and circumstances of the case, period of custody, co-accused has already been granted bail, charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence, 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 A.C.J.M., III, Saharsa in connection with Basnahi P.S. Case No. 64 of 2019, 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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