

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56247 of 2023

Arising Out of PS. Case No.-446 Year-2020 Thana- DUMRAO District- Buxar

NILESH KUMAR @ KHAKHANU SON OF SHIVJI RAI VILLAGE-
CHILHARI, PS- DUMRAON (NAYA BHOJPUR OP.), DIST- BUXAR

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Satyapal Singh, Advocate

For the Opposite Party/s : Mr. Dr. Ajeet Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 29-08-2023

Heard the parties.

The petitioner is an accused in connection with Dumraon (Naya Bhojpur O.P.) P.S. Case No. 446 of 2020 registered for the offences under sections 147, 148, 149, 341, 323, 302 and 506 of the Indian Penal Code and section 27 of the Arms Act lodged on 08.12.2020 by the informant, Mintu Singh.

As per the prosecution story, the allegation is that when the informant's father was sitting on the chair, reading newspaper, Kamlesh Yadav and Rajdev Yadav caught hold of his hands, Mantosh Yadav and Suraj Yadav his legs whereafter Birbal Yadav, Amit Yadav, Manish Yadav and Saroj Yadav opened fire which proved fatal. Accordingly, the FIR.

It is the case of the petitioner that he is not named in the FIR, his name has come in the confessional statement of Abhishek Kumar Singh @ Chhotu who has since been granted bail in Cr. Misc. No. 38488 of 2021. The further submission is



that even Birbal Yadav, Manish Yadav and Saroj Yadav against whom allegation of opening fire is/are there, have also been released on bail in Cr. Misc. No. 10341 of 2023, Cr. Misc. No. 15230 of 2023 and Cr. Misc. No. 2613 of 2023 respectively.

The last submission is that he was at that particular day in jail in connection with Sessions Trial No. 131 of 2017.

Learned APP for the State opposes the prayer but concedes that he is not named in the FIR, his name has come in the confessional statement and some of the similar placed co-accused have since been granted bail.

Taking into account the aforesaid submissions put forward by the learned Counsel for the petitioner and the State, he is not the person against whom allegation of firing is/are there, not named in the FIR, the similar situate other accused persons have since been granted bail, as stated above, this Court is inclined to extend him privilege of bail.

Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousands only) with two sureties of like amount each to the satisfaction of the learned Chief Judicial Magistrate, Buxar in connection with Dumraon (Naya Bhojpur O.P.) P.S. Case No. 446 of 2020, subject to the following conditions:-



(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his *bona fide*;

(ii) the petitioner shall appear on each and every date before the Trial court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial court itself;

(iii) the petitioner shall appear before the concerned police station every month for next one year to mark attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of his bail bonds;

(v) the petitioner shall desist from committing any criminal offence again failing which the State shall be at liberty to take steps for cancellation of the bail bonds.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

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