

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55335 of 2022

Arising Out of PS. Case No.-177 Year-2021 Thana- BELA District- Sitamarhi

SHABDUL NADAF S/o Late Nisharul Nadaf R/V- Betaha, P.S.- Bela, Distt-Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Santosh Kumar

For the Opposite Party/s : Mr.Syed Mojibur Rahman

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

3 02-02-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks bail in connection with Sessions Trial No. 213 of 2022 arising out of Bela P.S. Case No. 177 of 2021 registered for the offences punishable under Sections 395, 397 of the Indian Penal Code and Section 3 of Explosive Substance Act but the charges have been framed under Sections 395, 397 of the IPC, Section 27 of the Arms Act and Section 3/4 of Explosive Substance Act.

As per prosecution case, eight unknown miscreants entered into the house of informant and assaulted his wife and daughter-in-law and took away Rs. 1,30,000/- kept in trunk. It is also alleged that miscreants took away ornaments of daughter of the informant. The miscreants also exploded bomb.



Learned counsel for the petitioner submits that petitioner is not named in the FIR and his name has been surfaced in this case upon his self confessional statement recorded in Bela P.S. Case No. 179 of 2021. He further submits that petitioner has been remanded in the present case on 23.02.2022 from Bela P.S. Case No. 179 of 2021 though in the impugned order it has been mentioned that petitioner is in custody since 09.03.2022. He further submits that nothing has been recovered from conscious possession of the petitioner nor he has been put on TIP and he has falsely been implicated in this case due to dirty village politics. He further submits that petitioner was not apprehended on the spot. Except self confessional statement, there is nothing on record to demonstrate the culpability of the present petitioner with the alleged occurrence. Co-accused Md. Aftab @ Md. Aftab Shekh has already been granted bail by the co-ordinate Bench of this Court vide Cr. Misc. No. 52495 of 2022. Petitioner bears criminal antecedent of seven cases. Charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence.

The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner on the ground that



petitioner carries criminal antecedent of seven cases.

Considering the facts and circumstances of the case, period of custody, co-accused Md. Aftab @ Md. Aftab Shekh has already been granted bail by the co-ordinate Bench of this court, 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 **after framing of charge** on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned 14th Additional Sessions Judge, Sitamarhi in connection with Sessions Trial No. 213 of 2022 arising out of Bela P.S. Case No. 177 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.

(iv) Petitioner shall furnish mobile number at the time of furnishing bail bond and the said mobile number shall continue in operating condition till disposal of the case and he shall get his presence marked before the officer-in-charge of the concerned police station on the first Tuesday of every month.

(v) Petitioner shall not leave the territorial jurisdiction of the concerned trial court without appropriate permission of the court concerned.

(vi) However, if petitioner violates any of the conditions enumerated above, the learned trial court shall be at liberty to cancel the bail bond of the petitioner.

(Alok Kumar Pandey, J)

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