

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57672 of 2022

Arising Out of PS. Case No.-325 Year-2021 Thana- LALIT NARAYAN UNIVERSITY
District- Darbhanga

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ABHIJIT SRIVASTAVA @ ABHIJIT KUMAR SRIVASTAVA S/O
ARUNESH KUMAR SRIVASTAVA Resident of Village- Laxmi Nagar, P.S.-
Lalit Narayan Mithila University, District- Darbhanga.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Rama Kant Sharma, Sr. Advocate
	:	Mr. Lakshmi Kant Sharma, Advocate
	:	Mr. Akshay Ashish, Advocate
For the Opposite Party/s	:	Mr.Md. Aslam Ansari, APP

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 17-01-2023 Heard the learned counsel for the petitioner and
the learned APP for the State.

The petitioner seeks regular bail in connection
with L.N.M.U. PS case no. 325 of 2021 instituted for the
offences punishable under Sections 25(1-b)a/26/35 of Arms
Act.

The case of the prosecution in brief is that after
the informant got information about firing by miscreants upon
the chief priest of Kankali temple, he along with the police
force had reached at the premises of Rambag campus, where
he found a priest lying in a pool of blood and at some
distance, some miscreants were also lying in a pool of blood.



One of the miscreants disclosed his name as Abhishek Raj while the other two had disclosed their identity as Abhijeet Srivastava (petitioner herein) and Pulkit Rai, however, one of the co-accused person namely Ashu Thakur had managed to flee away. On search, one pistol was found from the possession of accused Pulkit Rai and one live cartridge was recovered from the possession of the petitioner. In fact earlier, one case bearing L.N.M.U. PS case no. 324 of 2021 was registered under Sections 302, 307/34 of the Indian Penal Code and Section 27 of Arms Act, wherein it has been alleged that there was altercation in between the head priest, his son and the four accused persons including the petitioner herein, whereupon, the head priest had died on account of him being shot by Pulkit Rai and the said Pulkit Rai was also injured in the said incident, resulting in his death.

The learned Senior counsel for the petitioner submits that the petitioner is innocent, has been falsely implicated in the present case and he is languishing in custody since 22.01.2022. The learned counsel for the petitioner has further submitted that apart from L.N.M.U. PS case no. 324 of 2021, which has arisen out of the same incident in question, the petitioner is having a clean antecedent. It is next submitted



that the petitioner was arrested by the police on 14.10.2021 in the aforesaid case, however, he has been remanded in the present case only on 22.01.2022. It is also submitted that the present case has been filed under various provisions of the Arms Act and the only allegation levelled is regarding recovery of one live cartridge from the petitioner, however, even otherwise, the petitioner is neither alleged to have fired any gun shot nor he has been alleged to have engaged in any sort of overt act, as is apparent from the impugned order dated 22.08.2022. Lastly, it is submitted that a sympathetic view be taken on account of the period of incarceration of the petitioner.

Per contra, the learned APP for the State has vehemently opposed the prayer for bail.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the parties and taking into account the materials available on record, this Court finds that the present case is to be judged in the backdrop of its own merit, without prejudice being caused by the facts and circumstances of the other case bearing L.N.M.U. PS case no. 324 of 2021, hence, considering the fact that only one live cartridge has been



recovered from the pocket of the petitioner apart from the fact that he is languishing in custody since 22.01.2022, I deem it fit and appropriate to admit the petitioner to the privilege of bail.

Accordingly, the abovenamed petitioner is directed to be released on regular bail on furnishing bail bond of Rs. 10,000/- (Rs. Ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-VIII, Darbhanga in connection with L.N.M.U. PS case no. 325 of 2021.

(Mohit Kumar Shah, J)

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