

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60657 of 2023

Arising Out of PS. Case No.-108 Year-2023 Thana- BARHIYA District- Lakhisarai

RAUSHAN KUMAR Son of Late Vilayati Singh R/o vill - Paharpur, ward no.
2, P.S. and P.O. - Barhiya, Distt. - Lakhisarai

... .. Petitioner/s

Versus

THE STATE OF BIHAR PATNA

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shailesh Anand

For the Opposite Party/s : Mr. Suman Kumari Singh

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

5 04-12-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner seeks bail in connection with Barhiya P.S. Case No. 108 of 2023 registered for the offences punishable under Sections 120B, 201, 337 and 34 of the Indian Penal Code read with Sections 25(1-B)a, 26, 27 and 35 of the Arms Act.

3. As per prosecution case, during the course of investigation of Barhiya P.S. Case No. 107 of 2023, police force brought Raushan Kumar (s/o Sanjay Singh) at police station and during the course of enquiry Raushan Kumar (s/o Sanjay Singh) confessed his guilt and disclosed that the petitioner (Raushan Kumar, s/o- Late Vilayati Singh) and others hatched a plan 4-5 days earlier to implicate the opponent.



According to plan, petitioner made firing near Simratar Timuhani and the weapon which was used for firing, was kept in the house of old lady at village Adarsh Laxmipur. On the basis confessional statement of co-accused Raushan Kumar (s/o Sanjay Singh), one country made pistol alongwith empty magazine, one katta, one live cartridge and two empty cartridges were recovered from the house of Savitri Devi.

4. Learned counsel for the petitioner submits that petitioner has lodged the first case Barhiya P.S. Case No. 107 of 2023 on 13.05.2023 and petitioner himself is an injured person in the said case. Petitioner is quite innocent and has committed no offence as alleged against him in F.I.R. and he has falsely been implicated in the present case. No incriminating article has been recovered from the possession of the petitioner. Except confessional statement of co-accused Raushan Kumar (s/o Sanjay Singh), there is nothing on record to demonstrate the complicity of the present petitioner with the alleged occurrence. Petitioner is also a victim of circumstances and he has nothing to do with the alleged occurrence. Co-accused Raushan Kumar (s/o Sanjay Singh) has already been granted bail by the co-ordinate Bench of this Court vide Cr. Misc. No. 69274 of 2023 and the case of present petitioner stands more or less on similar



footing and he deserves bail. He further submits that petitioner has no connection with the Savitri Devi from whose house the alleged firm arms were recovered. Petitioner is in custody since 14.05.2023 and bears criminal antecedent of eight cases in which he is on bail. Charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence, as mentioned in impugned order and cognizance has also been taken against the petitioner.

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 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 on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Lakhisarai in connection with Barhiya P.S. Case No. 108 of 2023, 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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