

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60444 of 2022

Arising Out of PS. Case No.-65 Year-2022 Thana- PURAINI District- Madhepura

MD. AZHAR ALI @ AJHAR ALI @ AZHAR ALI Son of Md. Subhan Ali @
Sobhan Ali R/v- Aurai Purvi Ward No. 10, P.S.- Puraini, District- Madhepura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ranjan Kumar Jha, Adv

For the Opposite Party/s : Mr.Sanjay Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 07-02-2023 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks' from today.

Heard Mr. Ranjan Kumar Jha, learned counsel appearing on behalf of the petitioner and Mr. Sanjay Kumar Singh, learned Additional Public Prosecutor for the State.

The petitioner seeks regular bail, who is in custody in connection with **Puraini P.S. Case No. 65 of 2022** registered for the offences punishable under Sections 307/34 of the Indian Penal Code and Section 27 of the Arms Act.

The prosecution case is based upon the *fardbeyan* of Informant alleging therein that while he was sitting in his medicine shop, in the meantime, four unknown persons came on two motorcycle and out of them two persons came to his



counter and one of them fired upon upon him as result of which he sustained fire arm injury and thereupon, all the accused persons fled away.

Learned counsel for the petitioner submits that FIR has been instituted against unknown persons, however, in course of investigation one co-accused Subhash Mehta was apprehended by the police and the name of the petitioner has surfaced in this case on his confessional statement, however, save and except, the confessional statement there is no other material suggesting complicity of the petitioner in the crime. He further submits that petitioner was neither apprehended nor any incriminating material has been recovered from his possession and he is in custody since 30.04.2022, but till date he has not been put on TIP. He also submits that during the course of treatment the injury sustained to the Informant has been found to be simple in nature.

On the other hand, learned counsel for the State opposes the bail application and submits that from perusal of FIR, it evident that face of all the miscreants were covered with helmet and towel, as such, putting the petitioner on TIP would be of no use. It is also submitted that the petitioner is found involved in six other case and moreso the co-accused namely,



Subhash Mehta on whose confession the name of the petitioner has transpired, his prayer for bail has already been rejected by a learned co-ordinate bench of this Court vide order dated 23.09.2022 passed in Criminal Miscellaneous No. 36874 of 2022.

At this juncture, learned counsel for the petitioner submits that so far as co-accused Subhash Mehta is concerned he was found involved in ten other cases and almost all of them were found to be under Section 302 and 307 of the IPC and as such on that count his bail application has been rejected. So far as petitioner is concerned, he is involved in the cases which was initially instituted against unknown miscreants and later on his name has been implicated in this case. Apart from out of six cases, petitioner is on bail in three cases.

Regard being had to the submissions made on behalf of the parties and considering the fact that the name of the petitioner has transpired in this case on the basis of confessional statement of co-accused Subhash Mehta, and further no incriminating material has been recovered from the possession of the petitioner suggesting the complicity of the petitioner in the present case coupled with the fact that investigation of this crime is already complete and chargesheet has been submitted,



let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Twenty thousand) with two sureties of the like amount each to the satisfaction of learned **Additional Sessions Judge-III, Madhepura**, in connection with **S.T. No. 180 of 2022 (arising out of Puraini P.S. Case No. 65 of 2022)**, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

- (i) The petitioner will cooperate in conclusion of the trial.
- (ii) He will remain present on each and every date of trial till disposal of the case.
- (iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.
- (iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.
- (v) The court below shall verify the criminal antecedent of the petitioner and, in case, at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.
- (vi) **The petitioner shall mark his attendance after his release from custody before the office of Superintendent of Police, Madhepura, on first week of every month, for one year.**

(Harish Kumar, J)

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