

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.329 of 2022

Arising Out of PS. Case No.-125 Year-2021 Thana- SHAHKUND District- Bhagalpur

SAKAL DEO YADAV Son of Balram Yadav Resident of Village -
Dindyalpur, P.S.- Shahkund , Distt.- Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Aditya Pandey, Adv.
For the Informant	:	Mr. Swapnil Kumar Singh, Adv.
For the State	:	Mr. Satyendra Prasad, APP

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

4 10-01-2023 Let the defect(s), as pointed out by the office, be removed within a period of four weeks from today.

Heard learned counsel for the petitioner, learned counsel for the informant and learned A.P.P. for the State.

The petitioner seeks bail in connection with Shahkund P.S. Case No. 125 of 2021 registered for the offences punishable under Sections 302/ 34 of the Indian Penal Code and Section 27 of the Arms Act.

As per prosecution case, the informant received information that his son Rupesh Kumar was murdered and Rahul Kumar also sustained pillet injury. It is alleged that the sole reason of occurrence as narrated by the informant in the FIR that 15 days prior to the occurrence dispute took place between the petitioner and the deceased with regard to sale and purchase of sand. On the



sole ground of prior dispute the informant has firm belief that the petitioner and others had committed the murder of Rupesh Kumar and Rahul Kumar by firing.

Learned counsel for the petitioner submits that petitioner bears criminal antecedent of three cases in which he has been acquitted in one case i.e. Shahkund P.S. Case No. 83 of 2011. He further submits that except allegation of threatening prior to occurrence, there is nothing on record to connect the present petitioner with the alleged occurrence. There is no eye witness to the alleged occurrence. The case is based on circumstantial evidence. Except a feeble motive very distant in time, nothing has been found to complete the chain of circumstances. Moreover, no case or sanha has been lodged with regard to occurrence as alleged or narrated in the FIR i.e. 15 days prior to the occurrence. Moreover, petitioner is languishing in jail custody since 07.09.2021. Charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence. He further submits that no incriminating material has been recovered from the person or possession of the petitioner.

Learned counsel appearing on behalf of the informant as well as learned APP for the State opposed the prayer of bail but they have not even submitted that any connecting material is available against the petitioner to connect him with the



present occurrence.

Report has been called for from the concerned court with regard to stage of trial. The learned trial court vide letter no. 27 dated 25.07.2022 sent progress report of trial which indicates that charge has been framed and summons have been issued to the witnesses for prosecution evidence. The aforesaid report also indicates that the delay of trial is not attributable to the petitioner as the petitioner is behind the bar since 07.09.2021.

Considering the facts and circumstances of the case, period of custody, charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence, as per report of trial court delay of trial is not attributable to the petitioner itself, 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. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-II, Bhagalpur/concerned court in connection with Shahkund P.S. Case No. 125 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 each and every date and if he fails to do so without appropriate permission of trial court, his bail bond shall be cancelled by the 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.

(v) Petitioner shall co-operate in disposal of the case.

(Alok Kumar Pandey, J)

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