

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.431 of 2023

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

DIWAKAR KUMAR Son of Umakant Yadav Resident of village - Bhalni
(Bholani), P.S.- Murliganj, District - Madhepura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shekhar Kumar Singh, Adv.

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 03-07-2023 Heard learned counsel for the petitioner and the
learned A.P.P. for the State.

A supplementary affidavit, carrying out necessary
correction in the main application, has been filed on behalf of the
petitioner, which forms part of this application.

The petitioner seeks bail in connection with Murliganj
P.S. Case No. 65 of 2022 dated 09.02.2022 registered for the
offence under Sections 393, 302 and 34 of the Indian Penal Code
and Section 27 of the Arms Act.

As per the prosecution case, two miscreants boarded
on a glamour motorcycle came and tried to stop the truck on the
point of pistol but the said truck was not stopped on which one of
the miscreants fired on the driver which hit him due to which He
further submits that fell down on the steering. It is further
alleged that the informant saw two other miscreants in the
headlight of truck but could not see their faces. Thereafter, the



police came there and they took the injured to the hospital but he died during course of treatment.

Learned counsel appearing for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case. He further submits that the petitioner has not been named in the F.I.R., however, his name transpired in this case on the basis of confessional statement of the co-accused, Mantosh Kumar in which he has stated that he along with co-accused, Rittu Raj has committed the alleged occurrence. He also specifically stated that the co-accused Rattu Raj has fired upon the deceased and he was only in his association at the time of occurrence but he has not inflicted any injury to the deceased. He further submits that the police after investigation has submitted charge-sheet in this case against the petitioner. Moreover, the co-accused, namely, Mantosh Kumar has already been granted bail by a co-ordinate Bench of this Court vide order dated 19.04.2023 passed in Cr. Misc. No. 70628 of 2022. The petitioner is rotting in judicial custody since 13.06.2022.

Learned A.P.P. for the State has opposed the prayer for bail of the petitioner and submits that the petitioner carries two more cases other than the present one though he is on bail in both the cases.

Considering the facts and circumstances of the case, let the, above named, petitioner be released on bail on furnishing



bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate-1st Class, Madhepura in connection with Murliganj P.S. Case No. 65 of 2022 with the following conditions:-

(1) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on his/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be canceled by the Court below.

(2) 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.

And, further condition that 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 step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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