

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70673 of 2022**

Arising Out of PS. Case No.-676 Year-2017 Thana- SITAMARHI District- Sitamarhi

Nitish Kumar @ Dabang, S/O Ganesh Rai @ Ganeshi Rai R/O Village-
Naranga, P.S- Bela, District- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Parwej Khan, Advocate

For the Opposite Party/s : Mr. Dilip Kumar No. 1, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER**

2 29-03-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

In the present case, the petitioner seeks bail in connection with Sitamarhi P.S. Case No. 676 of 2017 registered for the alleged offences under Sections 302 and 34 of the Indian Penal Code and under Section 27 of the Arms Act.

As per prosecution case, brother of the informant went missing and his injured body was found near the clinic of a doctor and in that state he named ten co-accused persons who assaulted him. The injured later on succumbed to his injuries. The occurrence took place in the background of some dispute between the family of the informant and other co-accused persons.

Learned counsel for the petitioner submits that petitioner is innocent and has been falsely implicated in this case.



Learned counsel further submits that petitioner is not named in the F.I.R. and his name has been dragged in this case on the basis of confessional statement of co-accused Pintu Kumar but the said co-accused has not made any allegation of any overt act against the petitioner relating to commission of crime. The said co-accused and another co-accused Monu Kumar have been acquitted by the learned trial court. Learned counsel further submits that from the F.I.R. it is clear that main accused in this case is Pintu Kumar and he has been acquitted. Another co-accused who has been acquitted was earlier granted bail by a Coordinate Bench vide order dated 17.01.2018 passed in Cr. Misc. No. 352 of 2018. Charge sheet has been submitted in this case and the petitioner is in custody since 04.12.2021 in which he has been remanded from another case bearing Bela P.S. Case No. 110 of 2021.

Learned A.P.P. for the State opposes the prayer for bail of the petitioner submitting that the petitioner is having criminal history and is accused in a number of cases.

Having regard to the facts and circumstances and submission made on behalf of the parties and considering the fact that the petitioner is not named in the F.I.R. and no substantive material has come up against this petitioner to show the complicity of the petitioner in any specific overt act and further



considering the submission of charge sheet along with period of custody of the petitioner, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Sitamarhi in connection with Sitamarhi P.S. Case No. 676 of 2017, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions:

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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