

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73808 of 2023

Arising Out of PS. Case No.-136 Year-2023 Thana- BARARI District- Katihar

JAI PRAKASH SINGH @ JAYPRAKASH SINGH Son of Late Ashrafi Singh Resident of Mohalla - Gandhi Gram, Police Station - Barari, District - Katihar.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Akhauri Kamal Kishore Sahay, Adv.
For the State	:	Mr.Binod Kumar, APP
For the Informant		Mr. Rananjay Kumar, Adv.
		Mr. Harish Chandra Patel, Adv.

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 23-11-2023 Heard learned counsel for the petitioner, learned counsel for the informant and learned A.P.P. for the State.

2. The petitioner seeks bail in connection with Barari P.S. Case No. 136 of 2023 registered for the offences punishable under Sections 302, 120(B) of the Indian Penal Code and Section 27 of the Arms Act.

3. As per prosecution case, on 27.04.2023 informant's husband was sitting in front of shop of neighbour Anil Sah. In the meantime, co-accused Rakesh Kumar along with one unknown person came on the motorcycle and stopped the motorcycle near the shop of Anil Sah. It is further alleged that co-accused Rakesh Kumar fired two bullets on the informant's



husband. Thereafter, informant's husband went inside the shop of Anil Sah but said unknown person dragged him outside. In the meantime, co-accused Sanjeev Kumar exhorted co-accused Rakesh Kumar and after that co-accused Rakesh Kumar fired two more bullets on the informant's husband. It is further alleged that accused persons fled away on motorcycle threatening the villagers not to adduce evidence. Thereafter, informant's husband was taken to Referral Hospital, Barari where he was declared dead by the doctor. It is further alleged that reason behind the alleged occurrence is land dispute between the informant's husband and accused persons including the petitioner.

4. Learned counsel for the petitioner submits that petitioner is in custody since 04.05.2023. Petitioner bears criminal antecedent of one case in which he is on bail. He further submits that there is no specific overt-act attributed to the petitioner. Specific allegation of firing is against co-accused Rakesh Kumar. There is allegation of exhortation against the co-accused Sanjeev Kumar (son of the petitioner). There is general and omnibus allegation against the petitioner. He further submits that there is old enmity between deceased and petitioner and in this regard wife of the petitioner had filed a petition



under Section 39 of the Cr.P.C. against the deceased and his sons. Learned counsel orally submits that charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence.

5. Learned counsel for the informant and learned A.P.P. for the State opposed the prayer for bail of the petitioner.

6. Considering the facts and circumstances of the case, period of custody, no specific overt-act has been attributed against the petitioner, 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 Additional Chief Judicial Magistrate-III, Katihar in connection with Barari P.S. Case No. 136 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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