

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73296 of 2023

Arising Out of PS. Case No.-268 Year-2021 Thana- DHAMDAHA District- Purnia

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Kundan Kumar S/O Radhe Pasawan R/O Village- Itahari, P.S- Alamnagar,
Distt.- Madhepura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Parmatma Singh, Adv

For the Opposite Party/s : Mr.Satyendra Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 23-11-2023 Heard learned counsel for the petitioner and

learned APP for the State.

2. The petitioner seeks regular bail in connection with
Session Trial No. 123 of 2022 arising out of Dhamdaha P.S.
Case No. 268 of 2021, registered for the offence punishable
under section 302 and 34 of the Indian Penal Code and 27 of the
Arms Act.

3. As per the prosecution story, the allegation is that
when the brother of the informant, after unloading the stones
from the tractor, was resting, he was shot at and later and
succumbed to the injury. Accordingly, the FIR.

4. Learned counsel for the petitioner submits that the



FIR is against unknown persons. on the basis of CDR location, the police picked him up and forced to confess, which is resulted into his judicial custody since 05.01.2022 (as stated in paragraph-4 of the bail application). He submits that on the basis his confession, the other accused persons were also picked up who have subsequently been granted bail in Cr. Misc No. 19305 of 2023 and Cr. Misc No. 69424 of 2023 respectively.

5. His last submission is that there is no eye-witness to the occurrence save and except the CDR location and the confessional statement for which petitioner has already suffered for almost 2 years. Though the charges were framed and the trial was on after the examination of one witness in February, 2023 no further progress has taken place. Learned counsel for the petitioner undertakes that he will be diligently appearing in the trial on each and every date if released on bail and failure to do so, the trial Court shall be free to take steps for cancellation of his bail bond.

6. Learned counsel for the APP opposes the prayer for bail and submits that his name cropped up on the basis of CDR location, and he has also confessed to the Court.

7. Taking into account all the submissions put forward by the parties as also the fact that though he has remained in



custody since 05.01.2022, as per the submissions put forward by the learned counsel for the petitioner, no further progress has taken in trial post-February 2023, despite the fact that the accused persons were in jail, and in that background, the accused persons, namely, Raushan Kumar Paswan and Ranjan Mandal were granted bail, this Court is inclined to extend him the privilege of bail.

7. Let the petitioner be released on bail on furnishing bail of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Addl. Sessions Judge 5th, Purnea in connection with Session Trial No. 123 of 2022 arising out of Dhamdaha P.S. Case No. 268 of 2021 subject to the following conditions:

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his/her bona fide;

(ii) the petitioner shall appear on each and every date before the Trial court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his/her bail bond by the Trial court itself;

(iii) the petitioner shall appear before the concerned police station every fortnight for next one year to mark



attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of his bail bonds;

(v) the petitioner shall desist from committing any criminal offence again failing which the State shall be at liberty to take steps for cancellation of the bail bonds.

(Rajiv Roy, J)

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