

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5219 of 2023

Arising Out of PS. Case No.-217 Year-2022 Thana- MOUZAHDIPUR District- Bhagalpur

ARBIND YADAV S/O GHANSHYAM YADAV Resident of village-
Maheshpur, P.S.- Babbarganj, District- Bhagalpur.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Swapnil Kumar Singh, Advocate

For the Opposite Party/s : Mr. Anil Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 22-06-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

Petitioner seeks bail, who is in custody since
06.07.2022 in connection with Mozahidpur (Babbargunj) P.S.
Case No. 217 of 2022, F.I.R. dated 22.06.2022 for the offences
punishable under Sections 302/34 of the Indian Penal Code and
Section 27 of the Arms Act.

According to prosecution case, in brief is that the
informant namely Sumitra Devi gave a fardbeyan to SHO of
Mojahidpur Babarganj police station on 22.06.2022 alleging
therein that on the same day at about 11:30 hours, her son
received a mobile call from Aakash @ Pitul Kumar, who called
him for receiving money, Further alleged that on his call, her
son went out to take money, after some time, Mukesh Kumar



Pal informed her that her son had been killed by someone, thereafter she went there and saw that her son was lying injured and she saw the fired arm injury on his chest and with the help of nearby people, brought her son to Mayaganj Hospital where the doctor declared her son dead and when she inquired to her injured son about incident then her son replied that F.I.R. named accused persons including the petitioner have surrounded him and Aakash Kumar @ Pitul Kumar fired bullet upon her sons chest and further disclosed that the incident is conspired by Durgesh Sah and Santosh Jha and they have always threatened to shot her son.

Learned counsel for the petitioner submits that petitioner has clean antecedent and he has falsely been implicated in the present case. He further submits that the informant is not the eye witness of the alleged occurrence and only on the basis of the information given by the deceased the present F.I.R. instituted by the mother of the deceased and it is clear from the F.I.R. itself that co-accused Akash Kumar @ Pitul Kumar has fired upon the deceased and the petitioner was at best the member of the unlawful assembly with the co-accused person namely, Akash Kumar @ Pitul Kumar who shot fired upon the deceased and there is no acquisition of any assault or



overt-act is attributed against the petitioner. He further submits that the police after investigation submitted the charge sheet against the petitioner and the petitioner is in judicial custody since 06.07.2022.

The learned Additional Public Prosecutor for the State has vehemently opposed the prayer for bail of the petitioner.

Considering the aforesaid facts and circumstances, let the petitioner, above named, 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 the learned Judicial Magistrate, 1st Class, Bhagalpur in connection with Mozahidpur (Babbargunj) P.S. Case No. 217 of 2022, subject to 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 absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled 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.

3. 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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