

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11109 of 2024

Arising Out of PS. Case No.-367 Year-2021 Thana- SIWAN CITY District- Siwan

Afaz Ali @ Afzal Ali S/O Late Akhtar Ali, R/O Village- Dakhin Tola, P.S-
Siwan Town, Distt.- Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance:

For the Petitioner/s : Ms. Kumari Anupam, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 10-05-2024 Heard Ms. Kumari Anupam, the learned counsel for
the petitioner and Mr. Ajit Kumar, the learned Additional Public
Prosecutor for the State.

2. Petitioner seeks regular bail who is in custody since
29.07.2021 in connection with STR No. 424 of 2021, arising out
of Siwan Town P.S. Case No. 367 of 2021, FIR dated 09.07.2021,
registered for the offences punishable under Sections 302 and
120(B) read with Section 34 of the Indian Penal Code and under
Section 27 of Arms Act.

3. Earlier the petitioner has moved before this Hon'ble
Court in Cr. Misc. No. 59063 of 2022, which was dismissed as
withdrawn vide order dated 05.04.2023. Thereafter, the petitioner
again moved before this Court in Cr. Misc. No. 52814 of 2023,
which was also dismissed as withdrawn vide order dated



09.08.2023.

4. According to the prosecution case, the cousin brother of the informant along with the petitioner and one unknown person stabbed the father of the informant and also opened fire upon him due to which he sustained serious injury and later succumbed to his injury.

5. 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 upon perusal of the FIR it appears that there is specific allegation against the petitioner that petitioner and co-accused person namely, Noor Alam have fired upon the father of the informant and the said Noor Alam has been granted the privilege of anticipatory bail by a co-ordinate Bench of this Court vide order dated 22.12.2022 passed in Cr. Misc. No. 52642 of 2022 and another co-accused person, who is the cousin brother of the informant, has also been granted the privilege of the anticipatory bail by a co-ordinate Bench of this Court vide order dated 23.06.2022 passed in Cr. Misc. No. 63585 of 2021. He lastly submits that the police after investigation has submitted chargesheet and the petitioner is in judicial custody since 29.07.2021.

6. Vide order dated 16.02.2024, a report was called for with regard to the stage of the trial and report dated 20.02.2024 of



the learned trial Court reveals that out of nine chargesheeted witnesses, five witnesses have been examined and despite of best efforts the other witnesses have not been examined as yet.

7. Learned counsel for the petitioner submits that in view of the report of the learned trial Court, there is no chance of early conclusion of the trial in near future and the petitioner is in custody since 29.07.2021.

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

9. Considering the aforesaid facts and circumstances and the fact that petitioner has clean antecedent, there is omnibus allegation against the petitioner, other similarly situated co-accused persons have been granted bail by a co-ordinate Bench of this Court, the report of the learned trial Court as well as the petitioner's period of custody, let the petitioner, above-named, be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees ten Thousand only) with two sureties of the like amount each to the satisfaction of the learned Additional District and Sessions Judge-VII, Siwan, in connection with **Siwan Town P.S. Case No. 367 of 2021**, subject to the following conditions:

(i). Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the trial



Court and shall remain physically present as directed by the trial Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the trial Court.

(ii). 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.

(iii). And further condition that the trial Court 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 trial Court 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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