

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16808 of 2024

Arising Out of PS. Case No.-632 Year-2023 Thana- PATLIPUTRA District- Patna

Gorakh Rai @ Gorakh Nath, Male, aged about 53 years, son of Late Mahendra Rai, Resident of village- Gate No 65, Kurji More, P.S.- Digha, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Syed Mojibur Rahman, APP

CORAM: HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA

ORAL ORDER

2 06-03-2024 Heard Mr. Yogesh Chandra Verma learned senior counsel for the petitioner and learned APP for the State.

2. The petitioner seeks bail in connection with Patliputra P.S.Case No. 632 of 2023 instituted for an offence punishable under Sections 326, 307, 302 and 120B of the Indian Penal Code and Section 27 of the Arms Act.

3. As per the prosecution case, the petitioner and two other co-accused persons hired four unknown persons came on motorcycle and shot the brother of the informant who later on died. It is further alleged that contract killers were hired to kill his brother of the informant.

4. Learned senior counsel for the petitioner submits that the petitioner has falsely been implicated in this case. The



informant is not an eye witness of the case. From perusal of the impugned order dated 29.01.2024, it appears that there is only confessional statement of the co-accused and no other material reflect from the impugned order as the Learned Senior Counsel emphasized that in Para 58 of **Satender Kumar Antil Versus Central Bureau Of Investigation & Anr. (2022 LiveLaw (SC) 577)**, Hon'ble Apex Court has stated that:-

"Section 437 of the Code empowers the Magistrate to deal with all the offences while considering an application for bail with the exception of an offense punishable either with life imprisonment or death triable exclusively by the Court of Sessions. The first proviso facilitates a court to conditionally release on bail an accused if he is under the age of 16 years or is any woman or is sick or infirm, as discussed earlier. This being a welfare legislation though



introduced by way of a proviso,
has to be applied while
considering release on - bail
either by the Court of Sessions or
the High Court as the case may
be....."

5. The petitioner is a infirm person having injury in the spine and as such his bail should be considered and he shall be granted bail accordingly.

6. Learned counsel for the Informant as well as learned APP for the State opposes the prayer for bail of the petitioner and stated that the petitioner has four criminal antecedents as stated in para-3 of the petition and also submitted that the offence is very serious

7. On perusal of the first information report, impugned order dated 29.01.2024, it appears that the petitioner is an injured person who has spinal injury and has implants in his spinal cord. Considering the above facts and the judgment as laid down above, I am inclined to grant bail to the petitioner.

8. Prayer for regular bail of the petitioner is hereby allowed.

9. Accordingly, let the petitioner above named, be



released on bail on furnishing bail bonds of Rs.10,000/- with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate-X, Patna in connection with Patliputra P.S. Case No. 632 of 2023.

(Ramesh Chand Malviya, J)

Brajesh Kumar/-

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