

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26406 of 2024

Arising Out of PS. Case No.-328 Year-2020 Thana- VAISHALI District- Vaishali

Akhilesh Kumar @ Akhilesh Bhagat, Son of Arjun Bhagat, resident of Village- Bhagwanpur Ratti, Tola Rampur Rudra, P.S.-Vaishali, District- Vaishali

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner	:	Mr. Shyameshwar Kumar Singh, Advocate
For the State	:	Mr. Navin Kumar Pandey, APP
For the Informant	:	Mr. Shashi Bhushan, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

5 09-08-2024 Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State duly assisted by learned counsel appearing on behalf of the informant.

2. The accused/petitioner seeks bail in connection with Vaishali P.S. Case No.328 of 2020 registered for the offences punishable under Sections 147, 148, 149, 341, 323, 324, 427, 504, 506 of the Indian Penal Code and Section 27 of the Arms Act but, later on, Section 302 of the Indian Penal Code was added in the FIR.

3. The accused/petitioner is named in the FIR and is in custody since 05.02.2024.

4. Allegation against the petitioner is to



commit murder of brother of the informant along with other ten co-accused persons by causing bullet injuries, where occurrence is alleged to be arising out of land dispute regarding cutting of bamboo from bamboo clumps claimed by both the parties.

5. It is submitted by learned counsel appearing on behalf of the petitioner that the specific allegation *qua* firing is available against co-accused Manish Kumar @ Chintu and also against co-accused Ram Babu Kumar. It is pointed out that it was the firing of co-accused Manish Kumar @ Chintu, which caused death of brother of the informant, as specifically averred in written information. It is submitted that the implication of petitioner with present case is with aid of Section 149 of the Indian Penal Code, where the only allegation as an overt act is available against petitioner to surrounding deceased brother of informant soon before firing making no escape for him from place of occurrence along with other co-accused persons. It is submitted that the co-



accused persons having similar allegation to that of petitioner, namely, Shashi Bhushan Bhagat, Randhir Kumar @ Randhir Bhagat, Lalbabu Bhagat @ Satish Kumar have been granted bail by different learned co-ordinate Benches of this Court through Cr. Misc. No.5225 of 2021 dated 28.06.2021, Cr. Misc. No.32109 of 2021 dated 29.10.2021 and Cr. Misc. No.65380 of 2021 respectively. It is also pointed out that this Court also granted bail to similarly situated co-accused person namely, Rambabu Kumar @ Ranjeet Kumar through Cr. Misc. No.72027 of 2022 dated 19.06.2023. It is submitted that judicial parity demand that accused/petitioner, who is facing similar allegation *qua* afore-mentioned co-accused persons be enlarged on bail also. It is submitted by learned counsel that petitioner found involved in three more criminal cases arising with same informant and his family members. While concluding argument, it is submitted that investigation of this case has been completed, for which, charge-sheet has been submitted and, as



such, there is no chance of tampering with the evidence.

6. Learned APP duly assisted by Mr. Shashi Bhushan, learned counsel appearing on behalf of the informant submitted that the petitioner was co-accused in Vaishali P.S. Case No.28 of 1991 along with co-accused Ramawatar Bhagat, who is also one of the co-accused in this case. It is submitted that the bail of said Ramawatar Bhagat, which was granted by one of the learned co-ordinate Bench of this Court in Vaishali P.S. Case No.28 of 1991 through Cr. Misc. No.13149 of 2021 dated 17.08.2021 was cancelled by Hon'ble Supreme Court in the matter of **Sunil Kumar vs. The State of Bihar and Anr. [Criminal Appeal No.95 of 2022 dated 25.01.2022]**. It is pointed out that the present petitioner was absconder in that very case for several years and for that reason, his trial was also separated. It is further submitted that the petitioner is man of criminal antecedents and, therefore, there is all probability to commit crime or to influence witnesses during trial. Therefore,



the observation of Hon'ble Supreme Court also appears relevant *qua* petitioner in present case also and his prayer for bail should not be entertained.

7. Upon perusal of aforesaid report as passed by Hon'ble Supreme Court in the matter of **Sunil Kumar (supra)**, it appears that the order of High Court was set aside for the reason that it was not speaking and reasoned order, while granting bail to co-accused Ramawatar Bhagat in Vaishali P.S. Case No.28 of 1991, where this petitioner was also one of co-accused. Moreover, from the perusal of report of learned trial court as made available through Letter No. 36 dated 25.07.2024, it appears that altogether 12 witnesses were examined in Sessions Trial No.210 of 1992 arising from Vaishali P.S. Case No.28 of 1991. This fact also affirmed by learned counsel appearing on behalf of the informant and in view of same, as all material witnesses are now examined, the threat perception as submitted is not of such nature which may affect adversely the trial before the court.



8. In view of above-mentioned facts and circumstances, as allegation against this petitioner is very much general and omnibus in nature as per other co-accused persons, who have been granted bail by learned co-ordinate Bench of this Court (except co-accused Manish Kumar @ Chintu and Rambabu Kumar) as to surrounding brother of the informant during the occurrence, where his implication appears *prima facie* with aid of Section 149 of the Indian Penal Code, coupled with the fact that investigation of this case has already completed, where petitioner is in custody since 05.02.2024, accordingly, the petitioner, above-named, is directed to 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 the learned Judicial Magistrate-1st Class, Vaishali at Hajipur in connection with Vaishali P.S. Case No.328 of 2020, subject to the conditions as laid down under Section 437(3) of the CrPC and with further conditions:-



(i) That petitioner shall co-operate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial. Exemption from physical appearance be allowed by the learned Trial Court only on medical ground of the petitioner duly supported by the documents.

(ii) If it appears during trial of this case that petitioner in any manner made any attempt to influence the witnesses and also advance any threat, the State/informant shall be at liberty to take steps for cancellation of the bail bonds of the petitioner before trial court itself.

(Chandra Shekhar Jha, J.)

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