

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37634 of 2024

Arising Out of PS. Case No.-678 Year-2022 Thana- BIHTA District- Patna

Shri Rai @ Shri Niwas Rai @ Shri Niwash Rai @ Sri Ray @ Niwas Ray @
Sri Niwas Ray Son of Kamat Rai R/O Village- Amnabad, P.S.- Bihta, District-
Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Patanjali Rishi

For the Opposite Party/s : Mr. Chandra Bhushan Prasad

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 3 27-09-2024 1. Heard learned counsel for the petitioner and
learned A.P.P. for the State, Mr. Chandra Bhushan Prasad.
2. The petitioner seeks bail in connection with
Bihta P.S. Case No. 678 of 2022 registered for the offences
punishable under Sections 302, 201 and 34 of the Indian
Penal Code read with Section 27 of the Arms Act.
3. The SHO, Bihta P.S. and the Investigating
Officer of the case, in compliance of the order dated
21.09.2024, are present in the Court.
4. Learned counsel for the petitioner submits that
petitioner is in custody since 05.02.2024 and has antecedent
of nine cases and the informant alleges that her son along



with her husband went in search of their buffalo and reached Sone *Diyara* area where they saw 12 accused persons including the petitioner along with 10-15 unknown accused, variously armed, further, the accused persons on seeing her husband exhorted to kill him, as he was not leaving the land and thereafter it is alleged that petitioner fired at her husband, thereafter, Mandip fired and the third shot was fired by Amir, further her son, on seeing the occurrence, fled away from the place of occurrence and thereafter came back home and disclosed about the occurrence to the informant, accordingly, the instant FIR was instituted.

5. Learned counsel for the petitioner submits that it absolutely does not stand to reason that as to why the accused persons would have left the son of the deceased alive who is an eye witness to the occurrence, when it is not the case of the informant in the FIR that her son concealed himself and was witnessing the occurrence, it is also submitted that the endeavour of the accused would have been to eliminate the evidence against them, but then from tenor of the allegations as alleged in the FIR, it would



manifest that the son of the informant saw the entire occurrence as he specifically alleges that who were the three accused who fired. It is next submitted that though petitioner is alleged to have antecedent of nine cases, but then all the nine cases came to be instituted against the petitioner after the institution of the instant FIR, it is thus submitted that prior to the institution of the instant FIR, the petitioner was a person with clean antecedent, it is next submitted that though informant alleges that her husband was killed by the accused persons, but then the dead body of the deceased till date has not been recovered. It is also submitted that during the course of investigation, no empty cartridges were recovered from the place of occurrence nor any material from the place of occurrence was recovered which could have even remotely connected that murder of the husband of the informant had taken place at the place of occurrence.

6. The SHO, Bihta P.S. and the Investigating Officer of the case are present in the Court. The SHO submits that despite best efforts to locate the dead body of the deceased, the same till date has not been recovered, but



then fairly submits that no empty cartridges were recovered from the place of occurrence nor from the place of occurrence, it could be culled out that occurrence of the nature as alleged took place.

7. At this stage, the learned counsel appearing on behalf of the petitioner submits that the informant in the FIR alleges that she had the bloodstained towel and slipper of the deceased, but the same till date has not been handed over to the police.

8. The SHO, Bihta P.S. submits that despite their best endeavours, the informant did not produce the alleged bloodstained towel and slipper of the deceased and the same also stands recorded at Para-16 of the supplementary case diary, as such it is submitted that it appears that in order to give serious colour to the case, the said allegation was levelled.

9. The learned counsel for the petitioner submits that petitioner is in custody since 05.02.2024 and was a person with clean antecedent prior to institution of the instant FIR and came to be implicated in nine cases subsequent to the institution of the instant FIR. It is also



submitted that petitioner will not abscond and will not delay the framing of charge and trial.

10. Learned A.P.P. for the State opposes the prayer for regular bail of the petitioner.

11. Considering the submissions made by the learned counsel for the petitioner and after hearing the SHO, Bihta P.S. and Investigating Officer of the case, the petitioner above-named, be released on bail on furnishing bail bonds of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Bihta P.S. Case No. 678 of 2022.

12. One of the bailors of the petitioner shall be his father namely, Kamat Rai

13. However, it is made clear that if the learned Trial Court comes to a conclusion that petitioner, after his release, is trying to delay the framing of charge, in that event the learned Trial Court shall be at liberty to cancel the bail bonds of the petitioner.

14. It is also made clear that after framing of



charge, if the learned Trial Court comes to a conclusion that petitioner is trying to delay the trial in any manner, in that event also the learned Trial Court shall be at liberty to cancel the bail bonds of the petitioner.

15. The personal appearance of the SHO, Bihta PS and the Investigating Officer of the case is dispensed with.

16. Accordingly, the instant regular bail application stands allowed.

(Satyavrat Verma, J)

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