

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34417 of 2024

Arising Out of PS. Case No.-133 Year-2022 Thana- BARHIYA District- Lakhisarai

Raushan Kumar, Son of Tej Narayan Singh, Resident of Village - Rampur
Dumra, Police Station - Maranchi, District - Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Arun Kumar, Adv.

For the Opposite Party/s : Mr. Mohammad Sufyan, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 26-07-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner seeks regular bail, who is in custody in connection with Barahiya P.S. Case No. 133 of 2022 registered for the offences punishable under Section 302/34 of the Indian Penal Code and Section 27 of the Arms Act.

3. Based upon the written report, the prosecution alleges that in the night of 20.06.2022, the younger brother of the informant was living at *Bathan*. In the morning, his servant Dipu Manjhi informed that his brother is shot dead by unknown miscreants. The informant further came to know that his younger brother had relationship with Moni Kumari, who used to come at *Bathan* to meet him and even extract money. The family members of said Moni Kumari were aware of the



aforesaid fact and it is suspected that all the family members of Moni Kumari by hatching conspiracy, killed his brother.

4. Learned counsel for the petitioner contended that from the narratives of the FIR, it is evident that the petitioner is neither named in the FIR nor even suspicion has been raised. Dipu Manjhi, who had been working at *Bathan* of his younger brother did not disclose the name of persons, who killed the deceased. Only suspicion has been raised against the FIR named accused persons. During the course of investigation, Moni Kumari was apprehended and her statement was recorded. She disclosed before the police that she had relationship with the petitioner and he along with her brother wanted to eliminate the deceased. She also disclosed that on the alleged date of incident, she was present in the *Bathan* along with the deceased and in the fateful night, two unknown persons came there and pumped bullet over the head of the deceased and succeeded in fleeing away. Even the co-accused Moni Kumari did not disclose the name of the petitioner. Only suspicion has been raised about complicity of the petitioner. Merely on the basis of the aforesaid statement, the petitioner has been made accused.

5. Adverting to the aforesaid facts, learned counsel for the petitioner thus contended that there is no eyewitness to the



alleged occurrence. Neither Dipu Manjhi nor Moni Kumari disclosed the name of the petitioner. The entire case is based on suspicion and at best on the confessional statement, which has no evidentiary value. Co-accused Moni Kumari has already been granted by the co-ordinate Bench of this Court vide order dated 23.12.2022 passed in Cr. Misc. No. 53372 of 2022. The petitioner is in custody since 22.01.2024 and the investigation of the crime is complete.

6. On the other hand, learned counsel for the State opposed the bail application and submitted that the petitioner bears four criminal antecedent and the materials collected during the course of investigation indicate the complicity of the petitioner in the present crime.

7. Regard being had to the submissions made on behalf of the parties and considering the statement of the witnesses, including co-accused Moni Kumari, who did not disclose the name of the petitioner; barring the confessional statement, there is no material and now the investigation of crime is complete; moreover, the criminal antecedent of a person cannot be a sole ground to keep him behind the bar for an indefinite period, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Twenty



thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Lakhisarai in connection with Barahiya P.S. Case No. 133 of 2022, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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