

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39042 of 2024

Arising Out of PS. Case No.-109 Year-2021 Thana- KARAKAT District- Rohtas

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SRI LAL TIWARI @ LAL BABU TIWARI @ LAL TIWARI S/O LATE
DEVI SAHAI TIWARI @ DEVI SAHAI R/O VILLAGE- DHODHANDIH,
P.S- KACHHWA, DISTT.- ROHTAS.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner	:	Mr. Ashhar Mustafa, Advocate
For the State	:	Mr. Sanjay Kumar Tiwary, APP
For the Informant	:	Mr. Sunil Kr. Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 23-08-2024 Heard learned counsel for the petitioner, learned

A.P.P. for the State and learned counsel appearing on behalf of

the informant.

2. The petitioner seeks bail in connection with

Karakat P.S. Case No. 109 of 2021, registered for the offence

punishable under Sections 341, 323, 307, 504, 302, 120B and 34

of the Indian Penal Code and Section 27 of the Arms Act.

3. As per prosecution case, on 09.07.2021 at around

3:30 PM, while the informant was going to Sakala market along

with his brother Dharmendra Tiwary, to bring diesel and as they

moved ahead, they were intercepted by all the F.I.R. named

accused persons, including this petitioner, who were waiting for

them beneath a mango tree near the filed of one Musafir Pandey



and because of previous land dispute, they became aggressive and started abusing informant and his brother. It is further alleged that when informant and his brother asked them not to do so, they got enraged and started assaulting them. Thereafter, co-accused Sanoj Tiwari, Ashish Tiwari and Manoj Tiwari pulled pistols from their waist and co-accused Sanoj Tiwari fired upon them and thereafter, co-accused Ashish Tiwari and Manoj Tiwari started indiscriminate firing upon Dharmendra Tiwari. It is further alleged that as a result of the gunshots, Dharmendra Tiwari sustained injuries in his hand, back, chest and other parts of his body and later on succumbed to his injuries. It is alleged that this petitioner is behind the occurrence and it is him who incited other accused persons to kill the deceased.

4. It is submitted by learned counsel appearing on behalf of the petitioner that bare recital of the F.I.R. goes to show that allegation of causing gunshot injury is attributed to co-accused Sanoj Tiwari, Asish Tiwari and Manoj Tiwari. This petitioner is only alleged to have incited other accused persons, upon which, they resorted to firing and killed brother of informant. It is further submitted that during investigation, allegations levelled against this petitioner were found false, as a



result of which Charge Sheet No. 176 of 2022 was submitted against other co-accused persons and this petitioner was not sent up for trial. However, learned Magistrate took cognizance against this petitioner. Charge-sheet has already been submitted and petitioner is in custody since 05.02.2024.

5. On the other hand, learned A.P.P. for the State and learned counsel for the informant have vehemently opposed the prayer for grant of bail to the petitioner and submitted that petitioner is named in the F.I.R. and it was this petitioner who incited other accused persons to fire upon the deceased. It is further submitted that postmortem report also corroborates the prosecution case.

6. Considering the facts and circumstances of the case, the fact that petitioner is not assailant of the deceased and he is only alleged to be the order giver and period of custody, the prayer for bail of petitioner is allowed.

7. Accordingly, let the above named petitioner be released on bail on furnishing bail-bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge, Rohtas at Sasaram, in connection with Karakat P.S. Case No. 109 of 2021 with the following terms and conditions:

(a) The petitioner shall co-operate in the trial and shall



be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on his absence on two consecutive dates without sufficient reason, his bail bonds shall be cancelled by the Court below.

(b) 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

(Prabhat Kumar Singh, J)

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