

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48589 of 2023

Arising Out of PS. Case No.-82 Year-2023 Thana- SAMASTIPUR District- Samastipur

Vinay Prasad @ Vinay Kumar Prasad S/O Late Jagannath Prasad Resident Of
Ward No. 25 (Malgodam Road), Station Road, East Grp, Ps. Town
Samastipur, Dist. Samastipur, Bihar, 848101

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sanjay Singh, Sr. Adv. Mr. Rudrank Shivam Singh, Adv.
For the Opposite Party/s	:	Mr. Anil Prasad Singh, APP
For the Informant	:	Mr. Ashok Kr. Choudhary, Sr. Adv. Mr. Uday Chand Prasad, Adv.

**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL ORDER

7 28-02-2024 Heard learned counsel for the parties as also perused
the case diary.

2. Pursuant to the earlier order of a Co-ordinate Bench
of this Court, the court below has sent its report regarding stage
of the case which is kept at Flag-E in which it has been stated
that the charge has been framed on 05.01.2024 and the case is
fixed for evidence of prosecution witness. It has further been
stated that the expected time to conclude the trial of the case is
six months.

3. The petitioner seeks bail in connection with
Samastipur (Town) P.S. Case No. 82 of 2023 instituted for the
offences under Sections 341, 323, 324, 326, 307 of the Indian



Penal Code and Section 27 of the Arms Act.

4. As per allegation made in the F.I.R., the Informant along with her husband and her daughter had gone to Khatu Shyam Mandir for offering prayer. While the Informant was offering prayer, she heard sound of 4-5 round firing whereafter the Informant went there and saw that her husband was being carried out of the temple by 3-4 people in an injured condition. On query, he disclosed that when he opposed the petitioner, the petitioner opened fire from his licensed pistol 5-6 times on his chest and abdomen and fled away from there.

5. Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in the present case. There is a case and counter case between the parties. There is a free fight between the parties wherein the Informant's husband and others were the aggressors and the petitioner was just trying to defend himself. Both the parties are family members. He further submits that there is an ongoing land dispute between the parties and a civil suit is already pending between them. Charge has already been framed in this case. He further points out that actually the petitioner was brutally assaulted by the Husband of the Informant along with unknown persons for which Samastipur Town P.S. Case No. 83



of 2023 was lodged against the prosecution party. The Informant is not an eye-witness to the occurrence. The petitioner is languishing in judicial custody since 03.04.2023. The petitioner by way of filing supplementary affidavit has stated that the petitioner has altogether six criminal antecedents.

6. Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner. He submits that there is direct and specific allegation of firing against the petitioner and the petitioner was arrested at the spot with fire-arms. Counsel for the State has further stated that the injury report fully supports the prosecution case.

7. Considering the entire facts and circumstances of the case and taking into account the rival submissions made by the parties and considering the fact that there is no likelihood of concluding the trial in near future as no witness has been examined till date, let the petitioner, abovenamed, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with Samastipur (Town) P.S. Case No. 82 of 2023, subject to following conditions;

(i) One of the bailors shall be own/close member of



the family of the petitioner.

(ii) The petitioner shall appear on each and every date fixed at the trial. In case of default in such appearance on two consecutive dates, the Trial Court will have liberty to cancel the bail bonds of the petitioner.

(Rudra Prakash Mishra, J)

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