

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 54213 of 2024

Arising Out of PS. Case No.-109 Year-2024 Thana- SAMASTIPUR MUFFASIL District-
Samastipur

Sonu Kumar S/o Late Ram Jatan Rai Resident of village Hasanpur Jitwarpur
PS Samastipur Muffasil District Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Abhay Shanker Singh, Adv.
For the Opposite Party/s : Mr. Ahmad Ali, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 11-09-2024 Heard Mr. Abhay Shanker Singh, learned Advocate
for the petitioner and Mr. Ahmad Ali, learned APP for the State.

2. The petitioner seeks regular bail, who is in custody
in connection with Samastipur Muffasil P.S. Case No. 109 of
2024 registered for the offence punishable under Sections 302
and 34 of the Indian Penal Code read with Section 27 of the
Arms Act.

3. Based on the written report, the prosecution alleges
that the informant and his family members have had a dispute
with co-villager Laxman Rai and on many occasions, he had
given threat to kill his family. It is further alleged that the co-
accused Laxman Rai had been in custody in previous case of
murder and loot and recently about 1 ½ month, he came out of
jail. Both the co-accused Laxman Rai and Ritesh Kumar had

demanded a tractor from his father and upon refusal, the named accused persons came on the house of the informant and shot the father of the informant, due to which he died.

4. Learned Advocate for the petitioner contended that the F.I.R. has been instituted against co-accused Laxman Rai and Ritesh Kumar later during the course of investigation, the name of the petitioner has sprung up on the confessional statement of co-accused Dilip Rai and Sumit Kumar @ Mahakal. Save and except, the confessional statement, there is no material suggesting the complicity of the petitioner in present crime. Even if the confessional statement is taken into consideration, though it is hit by Section 25/26 of the Indian Evidence Act, the petitioner is alleged to have played a role of middle-man. The assailant is said to be Sumit Kumar @ Mahakal. It is the fact that there is no eye witness to the alleged occurrence and the entire case is based on suspicion. Taking note of the aforesaid fact, co-accused person having allegation of conspiring to commit the crime and advancing money for the same has been accorded, the privilege of regular bail by this Court vide order 07.08.2024 passed in Cr. Misc. No. 53017 of 2024, a copy of which is placed on record. It is next contended that be that as it may, now the investigation of the crime is

completed and the charge-sheet has been submitted and the petitioner is in custody since 10.05.2024.

5. On the other hand, learned APP for the State vehemently opposes the bail application and submits that during the course of investigation, materials have come suggesting the complicity of the petitioner, apart from his criminal antecedent in an excise matter.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that the entire case against the petitioner is based upon confessional statement and there is no other material suggesting his complicity, coupled with the fact that co-accused person having identical allegation has been granted bail by this Court, now the investigation is complete, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned A.C.J.M.-II, Samastipur in connection with Samastipur Muffasil P.S. Case No. 109 of 2024, 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.

(v) The court below shall verify the criminal antecedent of the petitioner and in case, at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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