

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53280 of 2023

Arising Out of PS. Case No.-357 Year-2022 Thana- CHANDAUTI District- Gaya

Nitish Kumar S/O Late Ramchandra Prasad R/O Village- Kujapi, Ps.
Chandauti, Distt. Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Mahendra Thakur, Adv. Mr. Vijay Kumar, Adv. Mr. Krishna Prabhat, Adv.
For the Opposite Party/s	:	Ms. Nirmala Kumari, APP

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

ORAL ORDER

7 27-02-2024 Heard learned counsel for the petitioner and

learned APP for the State as also perused the case diary.

2. The petitioner seeks bail in connection with

Sessions Trial No. 297 of 2023 arising out of Chandauti P.S.

Case No. 357 of 2022 instituted for the offences under

Section 302, 201/34 of the Indian Penal Code.

3. As per prosecution case, on receipt of secret

information, the Informant reached at the place of

occurrence and recovered one dead body lying there, which

seems that some unknown persons killed him by shooting

and threw the dead body beside the Churi hill.



4. Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in the present case merely on suspicion. The petitioner is not named in the F.I.R. rather his name has sprung in this case during investigation on the basis of statement of the deceased wife. He further submits that nothing incriminating has been recovered from the conscious possession of the petitioner or his house. The petitioner was not caught at the place of occurrence. Admittedly, there is no eye-witness to the occurrence. It is further submitted that the house from where one country made pistol has been recovered is his uncle's house. The petitioner has no criminal antecedent as has been stated in paragraph no.3 of the present bail application. The petitioner is languishing in judicial custody since 28.08.2022.

5. Learned counsel for the petitioner again submits that the co-accused namely Santosh Kumar has been granted bail by a Co-ordinate Bench of this Court vide order dated 14278 of 2023 passed in Cr. Misc. No. 28.07.2023.

6. Learned A.P.P. for the State has vehemently



opposed the prayer for grant of bail to the petitioner. A counter affidavit has been filed by the State stating therein that the petitioner was arrested on 27.08.2022 and from his possession, two mobiles were seized, one of the petitioner and another of the deceased. He further submits that the Khokha seized from the P.O., the country made pistol seized from the petitioner and the bullet found in the dead body of the deceased were sent to the Forensic Science Laboratory, Patna and as per the report of the F.S.L., all the three things matched. It is also stated that in the confessional statement of the co-accused Rohit Kumar, it has been admitted that the murder weapon was purchased by Rohit Kumar and he had handed it over to the petitioner. In view of the above, the petitioner does not deserve bail.

7. Considering the entire facts and circumstances of the case and taking into account the period of custody of the petitioner as also the petitioner having no criminal antecedent, let the petitioner, abovenamed, be released on bail after framing of charge if the charge already is not framed 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 Sessions Trial No. 297 of 2023 arising out of Chandauti P.S. Case No. 357 of 2022, subject to the conditions that;

(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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