

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57412 of 2024

Arising Out of PS. Case No.-35 Year-2023 Thana- BRAHMPURA District- Muzaffarpur

Manish Kumar @ Toffie @ Toffi Rai S/o- Anil Kumar Yadav @ Anil Rai
Moh- Krishna Toli ward no 3, Brij Bihari Gali, Ps- Brahmpura Dist-
Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ravi Ranjan, Adv.

For the Opposite Party/s : Mr.Prem Kumar Jha, APP

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

ORAL ORDER

2 09-08-2024 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner has earlier moved before this Court with a prayer for anticipatory bail which was dismissed vide order dated 06.03.2024 passed in Cr. Misc. No. 13778 of 2024 with an observation to renew the prayer for bail after framing of charge before the trial court and the same shall be considered on its own merit without being prejudiced by the present order.

3. The petitioner seeks bail in connection with Sessions Trial No. 169 of 2024 arising out of Brahmpura P.S. Case No. 35 of 2023 instituted for the offences under Sections 307/34 of the Indian Penal Code and Section 27 of the Arms Act.



4. As per prosecution case, on the alleged date and time of occurrence, the petitioner fired two bullets on the mother of the Informant and fled away on motorcycle with another unknown miscreant. It is further alleged that there was previous enmity between the petitioner and the brother of the Informant and the petitioner used to threaten him with dire consequences.

5. Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence as alleged against him and has falsely been implicated in the present case. He submits that as per F.I.R., the alleged occurrence took place on 19.02.2023 at 10.15 pm and the *fardbeyan* has been recorded on 20.02.2023 at 12.07 in night i.e. after 24 hours particularly the Informant says in the *fardbeyan* that immediately the police was informed. He further submits that alleged occurrence took place in the night and the firing has been made through window and, hence, under such circumstances, the identification is doubtful. The charge has been framed on 09.04.2024 and there are total nine charge-sheet witnesses in this case and, hence, there is no likelihood of completion of the trial in near future. There is a previous dispute between the brother of the Informant and the petitioner. He further submits that from perusal of the



F.I.R., it appears that in the firing, two bullets were fired by the petitioner, but, in the seizure list, three empty cartridges have been shown to have been recovered from the place of occurrence which raises doubt over the prosecution case. The petitioner has altogether twenty-eight criminals antecedents and is languishing in judicial custody since 21.07.2023 without any rhymes or reason.

6. Learned counsel for the petitioner again submits that the co-accused namely Sonu Kumar has been granted bail by this Court vide order dated 21.12.2023 passed in Cr. Misc. No. 67511 of 2023.

7. On the other hand, learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner.

8. Having heard rival contention of both the parties and considering the entire facts and circumstances of the case as also taking into account the period of custody of the petitioner, 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 Sessions Trial No. 169 of 2024 arising out of Brahmpura P.S. Case No. 35 of 2023, subject to the following conditions;



(i) One of the bailor(s) shall be the own/close family members of the petitioner.

(ii) The petitioner shall cooperate 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 in the event of failure on two consecutive dates without sufficient reasons, his bail bond shall be liable to be cancelled by the court below.

(iii) If the petitioner tampers with the evidence or the witnesses of the case by intimidating/pressurizing the witnesses, during the investigation or trial, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(iv) If the petitioner is found indulged in any criminal activity or commission of any crime after being released on bail, the prosecution will be at liberty to file an appropriate application before the court below for cancellation of his bail.

(Rudra Prakash Mishra, J)

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