

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61430 of 2024

Arising Out of PS. Case No.-133 Year-2023 Thana- PAHARPUR District- East Champaran

Arvind Kumar @ Arjun Kumar @ Arbind Kushwaha @ Arjun Kushwaha S/o
Late Balister Prasad Resident of Village- Sataha Dubey tola, P.S.- Paharpur,
District- East Champaran, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mayank Mohan, Adv.

For the Opposite Party/s : Mr.Rajendra Nath Jha, APP

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

ORAL ORDER

3 14-11-2024 Heard learned counsel for the petitioner and learned
APP for the State. Perused the case diary.

2. The petitioner seeks bail in connection with
Paharpur P.S. Case No. 133 of 2023 instituted for the
offences under Sections 302/34 of the Indian Penal Code and
Section 27 of the Arms Act.

3. As per prosecution case, the allegation against the
accused persons including the petitioner is of committing
murder of the son of the Informant by shooting.

4. 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 further submits that nothing incriminating has been recovered from the conscious possession of the petitioner. The petitioner was neither present at the place of occurrence nor any witness or Informant whispered anything against the petitioner. The petitioner is not named in the F.I.R. and his named has surfaced in this case in course of investigation on the basis of police spy. There is no direct or specific allegation of any overt act against the petitioner rather the same is general and omnibus in nature. The petitioner has no concern with the deceased. No Test Identification Parade has been conducted in this case as yet. He further submits that due to past criminal antecedent and on the basis of self confessional statement of the petitioner and on the identification and suspicion of the spy, the police arrested the petitioner in this case. There is no eye-witness to the alleged occurrence. He further submits that the deceased was a habitual criminal and was indulged in several cases. He again submits that save and except confessional statement of the petitioner and the suspicion of the spy, there is nothing against the petitioner which links him with the alleged



occurrence. There is a non-compliance of Section 100 of the Cr.P.C. which creates a serious doubt in the prosecution case. The petitioner has three criminal antecedents and is languishing in judicial custody since 27.01.2024 without any rhymes or reason.

5. On the other hand, learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner, stating that the offence alleged against the petitioner is serious in nature. The inquest report supports the prosecution case. The witnesses in Para 5, 9 & 10 of the case diary have corroborated the version of the F.I.R. The postmortem report also supports the prosecution case where cause of death is mentioned as Hemorrhage and shock, caused by firearm. From Para-97 of the case diary, it appears that the tower location of the mobile of the petitioner was found near the place of occurrence. The petitioner has also confessed his guilt in his confessional statement of committing murder of the deceased by shooting. There is direct allegation against the petitioner and hence, he does not deserve bail.



6. Having heard rival contention of both the parties and keeping in view the nature of allegation as also the gravity of offence as well as the evidences available in the case diary, this Court is not inclined to grant bail to the petitioner.

7. Accordingly, the prayer for bail of the petitioner, above named, is rejected with a direction to the court below to expedite the trial.

(Rudra Prakash Mishra, J)

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