

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61883 of 2023**

Arising Out of PS. Case No.-28 Year-2023 Thana- BALIA BELON District- Katihar

MD. SONU @ OSAMA BABU son of Azad Alam Village- Sihrol Ps- Balia
Belone Dist- katihar

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Harish Chandra Patel, Adv.
For the State	:	Mr.Anil Kumar Singh No. 1, APP
For the Informant	:	Mr. Sanjay Kumar Sinha, Adv. Mr. Pankaj Kumar, Adv.

**CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER**

3 04-01-2024 Heard learned counsel for the petitioner, learned
counsel for the informant and learned A.P.P. for the State.

2. The petitioner seeks bail in connection with Baliya
Belon P.S. Case No. 28 of 2023 registered for the offences
punishable under Sections 307, 302, 120(B), 34 of the Indian
Penal Code and Section 27 of the Arms Act.

3. As per prosecution case, informant along with
Tanvir Rahi and other went to attend the marriage ceremony in
village Sihraul and during course of feast, the accused persons
named in the FIR and some unknown came there and fired upon
Tanvir Rahi who died on the spot. Other person also sustained
injury during course of said firing.

4. Learned counsel for the petitioner submits that



petitioner is not named in the FIR. He further submits that though the occurrence took place on 24.02.2023 and name of present petitioner came in this case during course of investigation on 07.03.2023 upon the statement of witness Md. Muslim recorded at para 53 of the case diary i.e. near about after 11 days of the occurrence. He further submits that adding the name of petitioner at later stage itself minimizes the authenticity of the prosecution story. He further submits that co-accused Abu Salam confessed his guilt disclosing involvement of the petitioner also and after that petitioner also confessed his guilt. He further submits that confessional statement of co-accused as well as self confessional statement of petitioner has no evidentiary value in the eye of law. He further submits that co-accused Abu Salam has already been granted bail by the co-ordinate Bench of this court vide Cr. Misc. No. 61958 of 2023 and the case of present petitioner is identically similar and on the principle of parity, petitioner also deserves bail. He further submits that petitioner is the son of co-accused Azad Alam who has contested the election of Mukhiya and petitioner has been falsely implicated in the present case on account of previous enmity on the basis of local election rivalry. He further submits that there is no specific allegation of firing against the petitioner



but his name has been dragged up on the basis of suspicion and except suspicion, there is nothing on record to demonstrate the complicity of the petitioner with the alleged occurrence. Petitioner is in custody since 24.06.2023 and bears no criminal antecedent. Charge sheet has been submitted against the petitioner and there is no likelihood of tampering with the prosecution evidence. He further submits that co-accused Md. Rashid @ Abdul Rasid and Md. Nadir @ Md. Nadir Alam have also been granted bail by the co-ordinate Bench of this court vide Cr. Misc. No. 44326 of 2023 and Cr. Misc. No. 42867 of 2023 respectively.

5. Learned counsel for the informant and learned APP for the State vehemently opposed the prayer for bail of the petitioner by submitting that petitioner is one of the assailants who has fired and on account of said reason, the victim died on the spot.

6. Considering the facts and circumstances of the case, period of custody, keeping in view clean antecedent of petitioner, charge sheet has been submitted against the petitioner and there is no likelihood of tampering with the prosecution evidence, co-accused has already been granted bail by the co-ordinate Bench of this court, argument advanced on behalf of



both sides and also taking into consideration the material available on record, let the petitioner above named be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate, 1st Class, Katihar in connection with Baliya Belon P.S. Case No. 28 of 2023, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

(iii) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Alok Kumar Pandey, J)

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