

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63250 of 2023

Arising Out of PS. Case No.-78 Year-2023 Thana- HATHAURI District- Samastipur

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ASHISH ACHARYA SON OF BIPIN ACHARYA RESIDENT OF
VILLAGE- BENK, PS- BIRAUL, DISTT- DARBHANGA

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Ajay Kumar Thakur, Adv
		Mr. Raja Ram Mishra, Adv
For the Opposite Party/s :		Mr.Asha Devi

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

6 27-02-2024 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner seeks regular bail in connection with
Hathauri P.S. Case No. 78 of 2023 registered on 23.05.2023
lodged under Sections 302/34 of the I.P.C.

3. As per the prosecution case, F.I.R. has been lodged
against two named accused persons including the petitioner to
whom allegation is of firing by pistol due to which informant brother
died.

4. Counsel for the petitioner submits that case diary has
been called for in the present case. In the case diary, certain
paragraphs are very much important. In the reinstatement, informant
has deflected from his own statement. Counsel further submits that
the statement made in paragraph 79 and 80, it



transpires that near relative has disclosed that this occurrence has been occurred not intentionally rather it was an accident about which intimation has been given to the police under Section 161 of Cr.P.C.

5. Counsel further submits that petitioner is innocent and has committed no offence. He further submits that petitioner is in custody since 19.06.2023 having one criminal case pending against him which is of recovery of the arms which is used in the present F.I.R. prior to that there is no criminal antecedent.

6. Learned counsel for the State opposes the prayer for bail.

7. Learned counsel for the informant vehemently opposes the prayer for bail and submits that there is specific allegation in the F.I.R., since both informant and accused persons are family members and it is due to this reason, it may happens that under pressure, deflection in the statement under Section 161 Cr.P.C. may come.

8. By virtue of the counter affidavit, counsel for the informant placed on record that for the recovery of arms has taken place from the possession of the petitioner and for which a separate F.I.R. has been filed, and therefore, the contradiction made in the statement may not be taken into consideration as the



arms used in the commission of crime was with the petitioner only.

9. Upon specific query made by this Court that whether charge has been framed or not, counsel for the petitioner submits that he is not aware of this fact that charge has been framed or not.

10. In the present facts and circumstances of this case and the submissions made above, let the petitioner above named, be granted bail *after framing of charge if the charge is not framed yet* and on furnishing bail bonds of Rs.30,000/- (Rupees Thirty thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate, 1st Class, Rosera, Samastipur in connection with hathauri P.S. Case No. 78 of 2023, subject to the conditions laid down under Section 437 (3) of the Cr.P.C.

(Dr. Anshuman, J)

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