

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63601 of 2023**

Arising Out of PS. Case No.-309 Year-2021 Thana- BARHIYA District- Lakhisarai

BADAL KUMAR SON OF RAMAKANT SINGH RESIDENT OF
VILLAGE - MALPUR, POLICE STATION - PIPARIYA, DISTRICT -
LAKHISARAI

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Santosh Kumar Pandey

For the Opposite Party/s : Mr.Kumar Veerendra Narayan

**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 Sessions Trial No. 269A of 2022 arising out of Barahiya P.S. Case No. 309 of 2021 registered on 15.12.2021 lodged under Sections 302,, 307, 120B/34 of the I.P.C. and Section 25(1-b)a/26/27/35 of the Arms Act.

3. As per the prosecution case, F.I.R. has been lodged against three named accused persons and three unknown accused persons against whom there is allegation of firing bullet shot (other than the petitioner) on the nephew of the informant due to which he died.

4. Counsel further submits that petitioner is innocent and has committed no offence. He further submits that petitioner is in custody since 21.03.2023 having three criminal case



pending against him, in which he is on bail. Charge sheet has already been filed and name of the petitioner has come for the first time by the statement of co-accused in paragraph 24 of the case diary in which it has been stated by him that persons who have fired are included in the present case.

5. Counsel submits further that from the minute reading of the F.I.R. as well as the statement made by the co-accused Pinku Kumar, it is crystal clear that the version of the said witness Pinku Kumar is not in consistency. In the initial line of statement under Section 161, he states that three persons made gun shot and subsequently disclosed about the present petitioner with a specific allegation.

6. Counsel submits further that it is improbable that a person who has received two gun shot injury shall be in a position to move. Counsel submits that from the content of the F.I.R. no material has filtered against the present petitioner.

7. Counsel for the informant opposes the prayer for bail and submits that the statement of the accused Pinku Kumar who was present at the time of occurrence has narrated his statement under Section 161 of the Cr.P.C. in which he has disclosed that the present petitioner namely Badal Kumar has fired. Counsel for informant further submits that from the



statement under Section 162, it is crystal clear that charge-sheet has been filed against the present petitioner showing him as absconder.

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

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 not framed yet and on being satisfied by the trial Court that he is not absconding in any of the criminal cases pending against him which is mentioned below*** 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 Additional Sessions Judge-I-cum-Special Judge, SC/ST Act, Lakhisarai in connection with in connection with Sessions Trial No. 269A of 2022 arising out of Barahiya P.S. Case No. 309 of 2021 , subject to the following conditions as well as the conditions laid down under Section 437 (3) of the Cr.P.C.



- Pipariya P.S. Case No. 29/2010
- Pipariya P.S. Case No. 22/2020
- Barahiya P.S. Case No. 253/2021

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his *bona fide*;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bonds by the Trial Court itself;

(iii) the petitioner shall appear before the concerned police station every month for one year to mark attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidence, failing which the State shall be at liberty to take steps for cancellation of the bail bonds; and

(v) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of the bail bonds.

(Dr. Anshuman, J)

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