

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65038 of 2023**

Arising Out of PS. Case No.-142 Year-2022 Thana- MAIRWAN District- Siwan

Brajendra Dubey @ Bajendra Dubey Son of Late Sitaram Dubey, R/O Seni
Chappra, P.S- Mairwa, District- Siwan, Bihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Puneet Siddharta, Advocate

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

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER**

5 09-02-2024 Heard Mr. Puneet Siddharta, the learned counsel

for the petitioner and Mr. Kumar Veerendra Narayan, the

learned Additional Public Prosecutor for the State.

2. Petitioner seeks regular bail who is in custody since
07.04.2022, in connection with Session Trial No. 649 of 2022,
arising out of Mairwa P.S. Case No. 142 of 2022, FIR dated
07.04.2022, registered for the offences punishable under
Sections 341, 323, 324, 307, 302, 120(B), 448 and 504 read
with Section 34 of the Indian Penal Code and under Section 27
of the Arms Act.

3. Earlier the bail petition of the petitioner was
withdrawn with a liberty to move afresh after framing of charge
and after the framing of charge the petitioner has filed the
present writ petition.

4. According to the prosecution case, the car of one
Krishnanand Dubey got scratched at the door of the informant,

due to which Krishnanand Dubey along with another co-accused person assaulted the informant. It is further alleged that all the FIR named accused persons armed with *lathi* and *danda* came to the house of the informant on 07.04.2022 and started assaulting him. Meanwhile, Beera Devi, w/o of Birendra Dubey brought her licensed rifle and handed the same to Birendra Dubey, who fired on informant's father with the rifle. Thereafter, Ranjan Dubey provided country made pistol to Brajendra Dubey, who fired on informant's brother. The informant's brother later succumbed to injury.

5. Learned counsel for the petitioner submits that petitioner has falsely been implicated in the present case. He further submits that as per the allegation made in the FIR, it is alleged that that the petitioner has fired upon the brother of the informant who later died during treatment. He further submits that in fact, the brother of the informant did not die because of firing made by the petitioner, rather he died because of the firing made by Birendra Dubey. He further submits that it has come during investigation that the said Birendra Dubey has confessed in his statement that he had fired upon both the victims.

6. Vide order dated 18.12.2023, a report was called for with regard to the stage of trial and the report of learned trial

Court reveals that charges have been framed against the petitioner and co-accused persons on 19.08.2023 and the case is pending for the examination of the prosecution witnesses and as per the report dated 18.01.2024, only one witness namely, Vijay Kumar Dwivedi has been examined.

7. Learned counsel for the petitioner submits that in view of the report of the learned trial Court, there is no chance of early conclusion of the trial in near future and the petitioner is in custody since 07.04.2022.

8. The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioner on the ground that petitioner carries one criminal antecedent other than the present one, but fairly admits that he has been granted bail in the said case.

9. Considering the aforesaid facts and circumstances and the fact that the co-accused person has confessed his guilt that he has fired upon the victim as well as the report of the learned trial Court and the petitioner's period of custody, let the petitioner, above-named, be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees ten Thousand only) with two sureties of the like amount each to the satisfaction of the learned Additional District & Session Judge-IX, Siwan, in connection

with **Mairwa P.S. Case No. 142 of 2022**, subject to the following conditions:

(i). Petitioner shall co-operate 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 on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

(ii). 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.

(iii). And further condition that the Court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the Court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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