

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69441 of 2024

Arising Out of PS. Case No.-58 Year-2021 Thana- UDAKISHUNGANJ District- Madhepura

Md. Niyajul Son of Md. Kudus @ Budho Miyan R/O Vill.- Uda Kishunganj,
Ward no. 06, P.S.- Uda kishunganj, Dist.- Madhepur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Bhagyashri Raj, Advocate

For the Opposite Party/s : Mr. Jitendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 27-09-2024 Heard Ms. Bhagyashri Raj, learned counsel for the
petitioner and Mr. Jitendra Kumar Singh, learned APP for the
State.

2. Petitioner seeks bail, who is in custody since
02.08.2022, in connection with Sessions Trial No. 393 of 2022
arising out of Uda-Kishubnganj P.S. Case No. 58 of 2021, F.I.R.
dated 17.02.2021 registered for the offences punishable under
Sections 326, 307, 34 of the Indian Penal Code and Section 27 of
the Arms Act.

3. The prosecution case, in brief, is that the accused
petitioner and other accomplice fired shots on the head of the
son of the informant namely Mithun @ Mantu Sah and fled away
boarding on a white coloured Apache vehicle.

4. Learned counsel for the petitioner submits that the



petitioner has clean antecedent and he has been falsely implicated in the present case. She further submits that although the petitioner is named in the F.I.R. but the statement of the victim namely Mithun Kumar @ Mantu was recorded in paragraph-21 of the case diary in which he has categorically stated that co-accused Md. Niyamul @ Nattha has fired upon him and he has been acquitted by the learned Trial Court in Sessions Trial No. 172 of 2022/CIS No. 172 of 2022 on 03.01.2024. Learned counsel for the petitioner further submits that another co-accused person namely Md. Sanif @ Sanfaraj has been granted the privilege of anticipatory bail by a Coordinate Bench of this Court vide order dated 16.08.2022 passed in Cr. Misc. No. 4125 of 2022. He further submits that the police after investigation submitted chargesheet against the petitioner and the petitioner is in custody since 02.08.2022.

5. The learned Additional Public Prosecutor for the State has vehemently opposed the prayer for bail of the petitioner.

6. Considering the facts and circumstances of the case and the fact that the petitioner having clean antecedent and there is no specific allegation of firing attributed against the petitioner and there is specific allegation of firing is against co-accused Md. Niyamul @ Natta, 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 A.D.J.-IV, Madhepura in connection with Sessions Trial No. 393 of 2022 arising out of Uda-Kishunganj P.S. Case No. 58 of 2021, subject to the following conditions :-

(1) 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.

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

(3) 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 antecedents, 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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