

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76533 of 2023

Arising Out of PS. Case No.-27 Year-2022 Thana- KIUL District- Lakhisarai

Chhotu Kumar @ Manish Kumar @ Chhtou Kumar, Son of Mahesh Yadav,
R/o village - Khagaur, P.S. - Kiul, Distt. - Lakhisarai

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner	:	Mr. Ramakant Sharma, Senior Advocate Mr. Sanjeev Kumar, Advocate
For the State	:	Md. Aslam Ansari, APP
For the Informant	:	Mr. S.K. Lal, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 10-05-2024 Heard learned senior counsel for the petitioner and

learned Additional Public Prosecutor for the State duly

assisted by learned counsel for the informant.

2. The accused/petitioner is named in the FIR and

apprehending his arrest in connection with Kiul P.S. Case

No.27 of 2022 registered under Sections 302 read with 34

of the Indian Penal Code and Section 27 of the Arms Act.

3. The allegation against the petitioner is to commit

murder of father-in-law of the informant by causing firearm

injuries, where occurrence arises out of local disputes and

differences.

4. It is submitted by Mr. Ramakant Sharma,

learned senior counsel appearing for petitioner that in a very



planned and formulated manner out of false and imaginary allegation, the petitioner has been implicated with present case. It is submitted that petitioner was named in the FIR, where informant claimed herself to be an eye-witness of the occurrence, as she was also following her deceased father-in-law along with co-accused persons including the petitioner. Having all such allegation, during investigation, nothing found incriminating by the police against the petitioner and submitted charge-sheet by exonerating him, whereas the learned Jurisdictional Magistrate by taking different note took cognizance against the petitioner for the offences punishable under Section 302, 120-B read with 34 of the Indian Penal Code and Section 27 of the Arms Act. It is submitted that the call details report of several mobile phones, which were collected during investigation, nowhere connect petitioner with present crime in question. It is submitted that even the firearm/pistol used in alleged occurrence was recovered in furtherance of the confessional statement of apprehended co-accused, namely, Shiva Kumar, who did not even name this petitioner and stated in



his confessional statement that all bullets were fired by him. Mr. Sharma, learned senior counsel submitted that all such inculpatory statement of apprehended co-accused persons, namely, Shiva Kumar along with recovery of pistol in furtherance of his confessional statement and call details report, were the factual aspects on the basis of which petitioner was exonerated.

5. It is further submitted by Mr. Sharma that the two other eye-witnesses of the occurrence, namely, Dhaneshwar Bind and Manju Devi whose statements were recorded under para-7 and 8 of the case diary makes a doubt that whether they are eye-witness of the occurrence or not for the simple reason that Dhaneshwar Bind failed to say anything about the presence of informant who also claimed to be present at the place of occurrence and furthermore, the statement of other eye-witness Manju Devi also appears doubtful, as she is not the eye-witness of the real occurrence of murder. While concluding argument, it is submitted that petitioner was involved in two more criminal cases, where he is on bail.



6. Learned APP for the State duly assisted by Mr. S.K. Lal, learned counsel appearing for the informant submitted that considering the informant as an eye-witness of the occurrence and other witnesses, who supported during investigation involving petitioner, the learned Jurisdictional Magistrate has taken cognizance against the petitioner. However, Mr. Lal fairly conceded that upon investigation, the petitioner was exonerated by the police

7. Considering the aforesaid factual submissions and also as petitioner was exonerated upon investigation, accordingly, the petitioner, above-named, is directed to be released on bail, in the event of his arrest or surrender in the court below within a period of four weeks, on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Lakhisarai in connection with Kiul P.S. Case No.27 of 2022, subject to the conditions as laid down under Section 438(2) of the CrPC and with further conditions:-

(i) That petitioner shall not involve
in similar nature of case till the conclusion



of trial, failing which the State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the petitioner.

(ii) That petitioner shall co-operate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court only on medical ground of the petitioner duly supported by the documents.

(iii) That one of the bailors shall be deponent of the present bail petition.

(Chandra Shekhar Jha, J.)

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