

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.83714 of 2024

Arising Out of PS. Case No.-283 Year-2024 Thana- BARARI District- Katihar

Nawaz Sarif @ Mithu Son of Late Imaran Ali Resident of Village - Gidhabari,
P.S. - Barari, District - Katihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ganesh Prasad Singh, Advocate
For the State	:	Mr. Parmanand Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 12-12-2024

Heard the parties.

2. The petitioner is in custody in connection with Barari P.S. Case No. 283 of 2024 for the offence punishable under Sections 310(4) and 310(5) of the Bhartiya Nyaya Sanhita and section 25(1-b)a, 26 and 35 of the Arms Act, lodged on 19.09.2024 by the informant, Fulendra Kumar.

3. As per the prosecution story, the informant alleged that having got knowledge of accused planing to commit big crime, place was raided and the allegation is that from:

(i) Vicky- one live cartridge as also mobile phone from his pocket.

(ii) Chandan Kumar Mandal- loaded country made revolver with two cartridges and a mobile phone.

(iii) Nawaj Sharif (petitioner herein)- two live cartridges and a mobile phone.



(iv) Md. Aslam- one samsung mobile.

As they failed to produce the papers and further disclosed that on 1.09.2024, they committed *Dacoity* and today also they were planning for it. This led to FIR/arrest.

4. Learned counsel for the petitioner submits that he do not have criminal antecedent and the police on false premise has implicated him. In any case, there is a recovery of mobile from him and he is in custody since 20.09.2024. Last submission is that one of the co-accused has been granted bail by this Court in Cr. Misc. No.82619 of 2024 (Md. Aslam vs. State of Bihar).

5. Learned APP opposes the prayer for bail submitting that the accused confessed to the crime as they were involved in the earlier *Dacoity* also. It is surprising that paragraph no.3 of the petition shows that he do not have any criminal antecedent.

6. Taking into account the submissions put forward by the parties as also that he do not have criminal antecedent and is in custody since 20.09.2024 and one of the co-accused has been granted bail, this Court is inclined to extend him the privilege of bail with conditions.

7. However, if it is found that he do have criminal antecedent contrary to the statement made in paragraph no.3 of the petition, the order shall be infructuous.

8. Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of like



amount each to the satisfaction of learned Additional Chief Judicial Magistrate-1st, Katihar in connection with Barari P.S. Case No. 283 of 2024 subject to the following conditions:

(i) one of the bailor should be the family member/relative 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 failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial Court itself;

(iii) the petitioner shall appear before the concerned police station every fortnight for next six months to mark his attendance;

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

(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 bail bonds.

(Rajiv Roy, J)

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