

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1812 of 2024

Arising Out of PS. Case No.-263 Year-2021 Thana- MAHARAJGANJ District- Siwan

Pinku Tiwari @ Sarvesh Tiwari son of Vakil Tiwari Village- Khanpura Ps-
Manjhi Dist- SARan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Ms. Kumari Anupam, Advocate
For the Opposite Party/s :	Mr. Jharkhandi Upadhyay, APP
For the Informant :	Ms. Archana Shahi, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 19-03-2024 Heard Ms. Kumari Anupam, learned counsel for the petitioner, Ms. Archana Shahi, learned counsel appearing on behalf of the informant as well as Mr. Jharkhandi Upadhyay, learned Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Maharajganj P.S. Case No. 263 of 2021, F.I.R. dated 31.10.2021 for the offences punishable under Sections 302 and 120B of the Indian Penal Code and Section 27 of Arms Act.

3. According to prosecution case, all the accused persons including the petitioner under a conspiracy are selling the land of the informant's mother-in-law. It is further stated that the co-accused, Keshav Raj @ Avinash Tiwari fired upon the



brother-in-law of the informant.

4. Learned counsel for the petitioner submits that petitioner is innocent and he has falsely been implicated in the present case. He further submits that the allegation as alleged in the F.I.R. is false and fabricated and the petitioner has not committed any offences as alleged in the F.I.R. He further submits that from perusal of the F.I.R it appears that there is specific allegation of firing attributed against the co-accused, namely, Keshav Raj @ Avinash Tiwari and there is no specific allegation of any assault or overt act attributed against the petitioner. He further submits that co-accused, namely, Hareram Sah has been granted anticipatory bail by a Co-ordinate Bench of this Hon'ble Court vide order dated 30.08.2022 passed in Cr. Misc. No. 7071 of 2022.

5. The learned counsel appearing on behalf of the informant as well as learned Additional Public Prosecutor have vehemently opposed the prayer for bail of the petitioner and submits that process of section 82 of Cr.P.C. has been initiated against the petitioner vide order dated 29.05.2023 so the present bail application is not maintainable. But fairly submits that it appears that before initiation of process of 82 of Cr.P.C. the bail application of the petitioner was rejected by the learned A.S.G



and in view of the judgment of this Hon'ble Court the bail application of the petitioner is maintainable and apart from that the petitioner carries three criminal antecedents other than the present one.

6. Considering the aforesaid facts and circumstances that there is no allegation of any assault or overt act attributed against the petitioner and the similarly situated co-accused person has been granted bail, let the petitioner, above named, in the event of arrest or surrender before the court below within a period of thirty days from the date of receipt of the order, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate 5th, Siwan in connection with Maharajganj P.S. Case No. 263 of 2021, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other 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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