

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22318 of 2025

Arising Out of PS. Case No.-632 Year-2023 Thana- PATLIPUTRA District- Patna

Rajkumar Roy @ Dhappu Rai @ Rajkumar Rai Son of Late Mahendra Rai
Resident of Mohalla- Gate No 65, Kurji More, P.S.- Digha, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 24076 of 2025

Arising Out of PS. Case No.-632 Year-2023 Thana- PATLIPUTRA District- Patna

Pappu Roy @ Pappu Rai S/o Late Mahendra Rai Resident of Mohalla- Gate
No 65, Kurji More, P.S. Digha, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :
(In CRIMINAL MISCELLANEOUS No. 22318 of 2025)
For the Petitioner/s : Mr. Avinash Kumar Singh, Advocate
For the Opposite Party/s : Mr. Sanjay Kumar Tiwary, APP
(In CRIMINAL MISCELLANEOUS No. 24076 of 2025)
For the Petitioner/s : Mr. Avinash Kumar Singh, Advocate
For the Opposite Party/s : Mr. Gulnar Begum, APP

**CORAM: HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA**

ORAL ORDER

2 09-05-2025 Heard learned counsel for the petitioners, learned
counsel for the informant and learned APP for the State.

2. The petitioners are in custody in connection with
Sessions Trial No. 521 of 2025 arising out of Patliputra P.S Case
No. 632 of 2023 registered for the offences punishable under
Sections 326, 307, 120 B of the Indian Penal Code & Section 27



of the Arms Act to which Section 302 of Indian Penal Code was added subsequently.

3. As per the prosecution case, four unknown persons hired by the named accused persons came on two motorcycle and shot the brother of the informant who later on died. It is further alleged that contract killers were hired to kill the brother of the informant.

4. Learned counsel for the petitioners submits that petitioners have falsely been implicated in this case and the informant is not the eye witness of the alleged occurrence. He further submits that petitioners have no concerned with the alleged occurrence and other co-accused persons involved in the present case. No incriminating articles have been recovered from their conscious possessions. It is next submitted by the learned counsel for the petitioners that in course of investigation the police arrested two persons who were alleged to be the shooters in the alleged occurrence and that they confessed their guilt and further divulged their entire *modus operandi* that the name of the petitioner didn't even figure in their statements though they even indicated in detail about the accused person who gave them *supari*. It is further submitted that deceased himself was a reputed criminal with twenty four criminal



antecedents and ten co-accused namely, i) Santosh Kumar in Cr. Misc. No. 6309 of 2024, ii) Guddu @ Guddu Ray in Cr. Misc. No. 6915 of 2024, iii) Saiyad Shahanwaz Hussain @ Saiyad Shahanwaz in Cr. Misc. No. 7820 of 2024, iv) Gorakh Rai @ Gorakh Nath in Cr. Misc. No. 16808 of 2024, v) Uday Kumar in Cr. Misc. No. 22527 of 2024, vi) Vikash Kumar @ Vikash Prasad in Cr. Misc. No. 28831 of 2024, vii) Md. Imran @ Lalu in Cr. Misc. No. 45805 of 2024, viii) Md. Kyash Khan @ Khushal Khan @ Md. Kyam Khan in Cr. Misc. No. 47170 of 2024, ix) Md. Kaish in Cr. Misc. No. 86783 of 2024 and x) Md.Ejaj @ Md. Ejajuddin @ Ejajuddin @ Md. Ejaz @ Md. Ajazuddin in Cr. Misc. No. 738 of 2025, have been granted regular bail by the Co-ordinate Benches of this Court. Learned counsel for the petitioners submitted that the Hon'ble Apex Court has canceled the bail of one of the co-accused namely Vishal Kumar @ Ajay Ray on the ground that his car has been captured in CCTV footage.

5. Learned counsel for the petitioner further submitted that while past criminal history can be considered, it's one factor among many, and the accused's right to bail should be evaluated based on the specific circumstances of the case. It is well settled principle of criminal justice system that the bail is the rule and



imprisonment is the exception. Criminal antecedents are relevant, but they shouldn't be the only reason for refusing bail. Courts must also consider the nature of the charges, the evidence against the accused, the potential for tampering with evidence, or influencing witnesses, and the length of potential incarceration. The other material on record must be analyzed for denying the bail. In the case of *Mohammad Wajid & Anr. v. State of Uttar Pradesh & Ors.*, Criminal Appeal No. 2340 of 2023 (Arising out of S.L.P. (Criminal) No. 10656 of 2022) the Hon'ble Apex Court emphasized that even if an individual has a history of criminal behavior, bail should not be denied solely on that basis. The Court stated that an accused has the right to argue that, regardless of past conduct, this judgment underscores the principle that bail decisions must consider the specific facts and merits of each case, rather than relying solely on an individual's past criminal record. Petitioners are in judicial custody since 13.12.2024.

6. Learned counsel for the informant and APP for the State has vehemently opposed the prayer for regular bail of the petitioners. It is further submitted by the learned counsel for the informant that petitioners are named in the First Information Report. It is further submitted that petitioners have five criminal



antecedents and in all these cases, they are on bail and bail of one of the Co-accused namely Vishal Kumar @ Ajay Ray was canceled by the Hon'ble Apex Court in SLP (Crl.) No. 9375 of 2024. It is also submitted by learned counsel for the informant that petitioners have alleged to give supari to kill the brother of the informant and all petitioners have got 5 criminal antecedent.

7. On perusal of the First Information Report, impugned order, postmortem report and case diary which has been produced by petitioner with affidavit provided under Section 207 of Cr.P.C and on the basis of *fardbeyan* of the Suresh Prasad, First Informant Report registered for the offence under Sections 326 and 307 read with 120B of the Indian Penal Code and under Section 27 of the Arms Act. During investigation, injured died and offence under Section 302 of the Indian Penal Code was later on added in the First Information Report. Present First Information Report registered against the three named accused persons including present petitioners and against four unknown persons. Allegation levelled against the petitioners are that the present petitioners gave *Supari* for murder of the brother of the informant and it appears that the informant is not an eye witness of the alleged occurrence and merely on the basis of suspicion and previous enmity he gave



the name of the petitioners. From perusal of the entire case diary it appears that accused persons upon whom allegation against causing murder of the deceased have nothing stated about involvement of the present petitioners in their confessional statement.

8. From perusal of the para 66, 92, 96, 120, 121, 139 to 142 of the case diary it appears that only confessional statement of three accused persons shows involvement of the petitioner but no recovery and evidence found against him. Further on perusal of CDR and tower location it is evident that name of the petitioners surfaced in this case only on the basis of suspicion in the FIR, but no recovery of any suspicious material found from their conscious possession or from their house and there is no telephonic conversation record of the petitioners found with the co-accuse at the date of alleged occurrence. There are details of bank account also attached which is not showing any transaction among the other co-accused, namely, Ajay Ray @ Vishal Kumar and no tower location of the petitioner found at the time on the place of occurrence.

9. Considering the aforesaid facts and circumstances of the case and submissions made on behalf of the petitioners, let the above named petitioners be released on bail on furnishing



bail bonds of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of learned Additional District & Sessions Judge, 1st, Patna in connection with Sessions Trial No. 521 of 2025 arising out of Patliputra P.S Case No. 632 of 2023.

(Ramesh Chand Malviya, J)

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