

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29530 of 2025**

Arising Out of PS. Case No.-493 Year-2019 Thana- BARAUNI District- Begusarai

Shivam Kumar @ Shiva, Male, aged about 24 years, Son of Ashok Rai @
Ashok Kumar Rai, Resident of Village- Gospur, P.S.- Muffasil, Dist-
Begusarai

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Ashok Kumar, Advocate

For the Opposite Party : Mr. Raj Ballabh Singh, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

6 12-08-2025 Heard learned counsel for the petitioner and learned
A.P.P for the State.

2. The petitioner has preferred this application for grant of regular bail in connection with Sessions Trial No. 111 of 2020, arising out of Barauni (Garahara O.P.) P.S. Case No. 493 of 2019 dated 13.11.2019 registered for the offences punishable under Sections 394, 397, 302 and 120B of the I.P.C. and Section 27 of the Arms Act.

3. The prosecution case, as per the written report of Santosh Kumar, submitted to the S.H.O., Barauni (Garhara O.P.) Police Station, is to the effect that on 12.11.2019 at 7.20 A.M.,



the informant alongwith his friend Prince Kumar Soni and the staff Abhay Kumar got down from '*Kath Godam Express Train*' at Barauni Junction after purchasing jewellery from Kolkata and left from Barauni Junction to Begusarai by their Car, but on the way, two motorcycles borne criminals first fired at the driver of the car, namely, Deepak Kumar, and thereafter made firing upon the informant's friend, namely, Prince Kumar Soni, and the staff Abhay Kumar and on the informant which hit on the right side of the chest of the informant and the friend of the informant Prince Kumar Soni also received gunshot injuries. Thereafter, unknown persons robbed the jewellery worth Rs. 2.97 Crores from the Desk-Board of the dickey of the car and fled away leading to the registration of the F.I.R. against two unknown. Subsequently, the driver of the informant also succumbed to the injuries.

4. Earlier the first prayer for bail of the petitioner was rejected by the Co-ordinate Bench of this Court in Cr. Misc. No. 15667 of 2020 vide order dated 09.07.2020, annexed as Annexure-P to the present bail petition. Thereafter, the second prayer for bail of the petitioner was rejected by the Co-ordinate Bench of this Court in Cr. Misc. No. 16027 of 2021 vide order dated 28.07.2021, annexed as Annexure-P/A to the present bail



petition with a direction to the learned trial court to expedite the trial and try to conclude it within six months from the date of this order i.e., 28.07.2021. Thereafter, the third prayer for bail of the petitioner was rejected by the Co-ordinate Bench of this Court in Cr. Misc. No. 73520 of 2022 vide order dated 15.02.2023, annexed as Annexure-P-1/B to the present bail petition with a direction to the learned trial court to conclude the trial of the case within next six months. Thereafter, the fourth prayer for bail application of the petitioner was rejected by the Co-ordinate Bench of this Court in Cr. Misc. No. 14395 of 2022 vide order dated 27.04.2022, annexed as Annexure-P/4 to the supplementary affidavit filed on behalf of the petitioner with a direction that further six months is granted to the Trial Court to conclude the trial.

5. Vide order dated 22.07.2025, a report with regard to the status of the present case was called for from the court of learned District and Additional Sessions Judge-XIth, Begusarai in connection with Sessions Trial No. 111 of 2020, arising out of Barauni (Garhara O.P.) P.S. Case No. 493 of 2019 on some points.

6. In pursuance to the aforesaid order dated 22.07.2025, a report vide Letter No. 3029 dated 08.08.2025,



kept at Flag-'C' on the record, has been received from the court of learned District and Additional Sessions Judge-XIth, Begusarai, in which it has been reported that (i) The argument was started from 11.03.2024, (ii) The defence argument of the petitioner is going on from 03.04.2024, (iii) Twenty nine dates were taken by the prosecution for making argument in this case. (iv) 45 dates were taken on behalf of the defence for argument. It is further reported that all the time taken in argument on behalf of the prosecution and defence was prior to joining of the learned District and Additional Sessions Judge-XIth, Begusarai in the court. The learned District and Additional Sessions Judge-XIth, Begusarai has joined in the court on 29.03.2025 and since dated 17.04.2025, both sides are being repeatedly directed to start fresh argument, but none of the parties are coming to start fresh argument. It has further been reported that the learned counsel have further been orally informed to come prepared for argument otherwise appropriate order shall be passed according to the law. Further, in this case, the date for argument is being fixed on every alternate day and the prosecution has started fresh argument on dated 31.07.2025 and next date is fixed for argument is 07.08.2025 on behalf of the prosecution side. As soon as the argument was concluded the case fixed for



judgment.

7. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case with ulterior motive and oblique purpose whereas he has not committed any offence. It is further submitted that the petitioner is not named in the F.I.R. It is further submitted that in course of investigation, the petitioner was put on T.I. Parade after more than 15 days of his arrest and the informant (P.W. 4) admitted in his deposition that he visited police station before the T.I. Parade, which was conducted in an irregular and unlawful manner. It is further submitted that as per prosecution, some ornaments were recovered from the possession of the petitioner but since such ornaments were not put on T.I. Parade rather the same was recovered from the Tomato and Brinjal field which is 50 meter east of the petitioner's house, hence, it could not be said that the recovered ornaments were looted articles. There is no eye witness to the alleged offence who has seen the petitioner participating in the alleged offence. The name of the petitioner has surfaced in the present case on the basis of the confessional statement of the co-accused Rajesh Kumar which has got no evidentiary value in the eyes of law. It is further submitted that the other co-accused person, namely, Rajesh



Kumar, has already been granted bail by the Co-ordinate Bench of this Court in Cr. Misc. No. 20760 of 2020 vide order dated 26.07.2020 and the case of the petitioner is on a better footing to the case of the other co-accused person, namely, Rajesh Kumar. The co-accused person, namely, Kanchan Paswan, has also been granted bail by another Co-ordinate Bench of this Court in Cr. Misc. No. 10225 of 2021 vide order dated 29.06.2021, annexed as Annexure-P/3 to the present bail petition. There is general and omnibus allegation against the petitioner. It is further submitted that the petitioner is not the assailant of the deceased which will be evident from the deposition of the informant rather he has allegedly fired on the injured Prince Kumar Soni and who is at present physically fit and doing day to day work. The charge has been framed on 14.12.2020. The petitioner has one criminal antecedent in which he is on bail as stated in paragraph no. 3 of the bail petition. The petitioner is in custody since 11.01.2019.

8. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner and has further submitted that although the petitioner is not named in the F.I.R. but his name has come in the present case during the course of investigation. Learned A.P.P. for the State has further submitted



that in paragraph no. 213, page 53 of the case diary which is the statement of the petitioner and in paragraph no. 14, page 133 which is the kafiya of the petitioner in which he has confessed his involvement alongwith the other co-accused persons, namely, Aakash Kumar, Kanchan Paswan and Rajesh Kumar in the present case and on the basis of his self confession, 03 Kilograms and 292 gram of gold ornaments was recovered from the Tomato and Brinjal field of the petitioner after digging of 5' ditch.

9. Considering the aforesaid facts and circumstances of the case as well as the accusation made against the petitioner, this Court is not inclined to grant bail to the petitioner and the same is again rejected in connection with Sessions Trial No. 111 of 2020, arising out of Barauni (Garahara O.P.) P.S. Case No. 493 of 2019, pending in the court of learned District and Additional Sessions Judge-XI, Begusarai.

10. The application stands again rejected.

11. The learned Trial Court is directed to expedite the trial of the petitioner and conclude the same within a period of two months from the date of receipt/production of a copy of this order and in this regard also send a report to this Court. If the trial of the petitioner is not concluded within a period of two



months from the date of receipt/production of a copy of this order, in that case, the petitioner will be at liberty to renew his prayer for bail.

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(Chandra Prakash Singh, J)

