

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27665 of 2025

Arising Out of PS. Case No.-12 Year-2025 Thana- UCHKAGAON District- Gopalganj

- 1. Mohmad Nazir Alam S/o Late Abdul Rahman R/o Village- Piprahi, P.S.- Uchkagaon, District- Gopalganj
- 2. Sakil Ahmad @ Sakil @ Jhuna Alam S/o Mohmad Nazir Alam R/o Village- Piprahi, P.S.- Uchkagaon, District- Gopalganj

... .. Petitioner/s

Versus

The State of Bihar

.. ... Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 36933 of 2025

Arising Out of PS. Case No.-12 Year-2025 Thana- UCHKAGAON District- Gopalganj

Niraj Singh Son of Dhrup Narain Singh Village- Shyampur, Ps- Uchkagaon, Dist- Gopalganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 27665 of 2025)

For the Petitioner/s : Mr. Y.V. Giri, Sr. Advocate
Mr. Sanjay Kumar Giri, Advocate
For the Informant : Mr. Jitendra Singh, Sr. Advocate
For the State : Mrs. Meena Singh, APP

(In CRIMINAL MISCELLANEOUS No. 36933 of 2025)

For the Petitioner/s : Mr. Ajay Kumar Thakur, Advocate
Mrs. Vaishnavi Singh
For the Informant : Mr. Jitendra Singh, Sr. Advocate
For the State : Mrs. Meena Singh, APP

CORAM: HONOURABLE MR. JUSTICE SOURENDRA PANDEY
ORAL ORDER

4 23-06-2025 Head Mr. Y.V. Giri, the learned senior counsel for the

petitioner Mohmad Nazir Alam and petitioner Sakil Ahmad @

Sakil @ Jhuna Alam, Mr. Ajay Kumar Thakur, the learned

counsel for the petitioner Niraj Singh, Mr. Jitendra Singh, the



learned senior counsel for the informant and learned APP for the State.

2. The petitioner seeks bail in a case registered for the offence punishable under Sections 103 and 3(5) of the BNS and Section 27(3) of the Arms Act.

3. As per the prosecution story, the informant Rajiv Kumar alleged that on 10.01.2025 while his elder brother Arvind Kumar Yadav was going to school on his motorcycle and he was right behind him along with one Prabakar Kumar Yadav on his motorcycle, he witnessed that the named accused persons including the petitioners started indiscriminate firing upon his brother Arvind Kumar Yadav, which hit him on his chest and abdomen and he fell down. It is further alleged that on hearing the sounds of firing, the villagers came there and the said accused persons fled away on two motorcycles and thereafter the brother of the informant was taken to the Sadar Hospital on Scorpio Car and where the Doctor declared him dead.

4. Mr. Y.V Giri, the learned senior counsel appearing on behalf of the petitioners has submitted that the petitioners have falsely been implicated in this case due to political rivalry. He has further submitted that during the course of investigation,



one Abhishek Kumar Yadav was apprehended by the police and in his inculpatory statement, he has confessed that he along with other named persons had committed the murder of Arvind Kumar Yadav, the brother of the informant. The learned senior counsel next submits that it was on the confessional statement of Abhishek Kumar Yadav, the weapon used in the said incident was also recovered. It has been submitted that even taking the said confessional statement into account, it would be evident that the only allegation against the petitioner is that he was contacted by the said accused, Abhishek Kumar Yadav and they had conspired in killing the brother of the informant. Mr. Giri, the learned senior counsel has further drawn the attention of this court towards the confessional statement of one Ranjit Goswami who was also apprehended and he has reiterated the statement made by the other co accused Abhishek Kumar Yadav and had although not identified the present petitioner and had given the detailed description of as to how the murder of the brother of the informant was committed and it has also come in the investigation that on his identification, the country made pistol and cartridges were recovered. Mr. Y.V Giri, the learned senior counsel further submits that the CDR of the petitioners was also examined during the course of investigation and it was found



that calls were made to a co-accused Niraj Singh, however, there is no reference of any calls being made to the non-FIR named accused persons who were subsequently apprehended. The learned senior counsel has also drawn the attention of this Court to the paragraph No. 164 of the case diary wherein the CDR of the petitioner No. 2 is also there and even from his CDR, it would be evident that there was no conversation with the non-FIR named accused persons who have confessed their culpability in committing such crime. Mr. Y.V Giri, the learned senior counsel has pointed out towards Para 200 of the case diary wherein the father of the non-FIR named accused Abhishek Kumar Yadav, has stated that there was some dispute with regard to a land and for which they were not happy with the conduct of Arvind Kumar Yadav, the deceased. The learned counsel next refers to the supervision report, which is contained in para 237 of the case diary and in the conclusion part, the supervising authority has observed that the petitioners had been made accused in this case on account of rivalry because of the previous cases between the parties. From perusal of the supervision note, it is also being made clear that the mobile location of all the accused persons are at different places during the time of the incident which contradicts the prosecution case



which has stated that all the petitioners/co-accused persons were together. Mr. Y.V. Giri, the learned senior counsel has next referred to Para 271 of the case diary wherein a reference of the statement of one Manish Kumar @Manish Yadav was recorded by the police and who had categorically stated that it was Manish along with Vikas and Abhishek who had committed the said crime at the instance of Avinash Kumar Yadav. It has further been stated that as the deceased was forcing him to execute a document with regard to one land that the murder was committed. Mr. Y.V Giri, the learned senior counsel has also pointed out to the statement of independent witnesses which was recorded in Para 176 and 177 of the case diary wherein they have stated that the petitioner No. 1 was at his house at Siwan on the relevant date and time. The learned senior counsel Mr. Y.V. Giri has lastly submitted that the petitioners have falsely been implicated in the present case because of political differences and they have no concern whatsoever with the alleged crime and the petitioner No. 1, though carries seven criminal antecedents but they were all lodged out of personal rivalries due to his political affiliations and out of those seven cases, he has been acquitted in four cases and is on bail in the others while petitioner No. 2 is an accused in only one case and



both are in judicial custody since 12.01 2025.

5. Mr. Ajay Kumar Thakur, the learned counsel appearing on behalf of petitioner Niraj Singh has adopted the arguments of learned senior counsel Mr. Y.V. Giri and has further added that from perusal of the FIR, it would be evident that the occurrence is stated to have taken place at 9:20 AM and it was only after the postmortem report was prepared, the written statement was given to the police by the brother of the informant at 16.00 hours, which goes to show that the application was given as an afterthought, impleading the petitioners with whom he had political rivalry. Mr. Ajay Kumar Thakur has further drawn the attention of this court towards the inquest report which has the reference of witnesses in the last and he submits that admittedly as per the FIR, the informant and others had taken the body to the hospital and subsequently where the inquest report was prepared there is no reference of any family member including the informant as a witness to such inquest and from the same, it could easily be inferred that none of the family members including the informant was present when the inquest was being done which also goes to prove that the informant and others were not even an eyewitness to the said occurrence. Mr. Ajay Kumar Thakur, the learned counsel has



submitted that the informant has stated himself to be a chance witness. However, it would be found that during the course of investigation it has come that the non-FIR named accused persons had committed the crime who have admitted their guilt in the inculpatory statement given by them. Mr. Ajay Kumar Thakur, the learned counsel has next submitted that in Para 165 of the case diary, the tower location as well as the CDR of Niraj Singh was taken note of and from the perusal of the same, it is evident that he was not in contact with the other accused persons. Mr. Ajay Kumar Thakur has drawn the attention of this Court to Para 179 of the case diary wherein the CCTV footage of the house of the petitioner Niraj Singh was taken note of wherein it was seen that Niraj Singh was at his home at 9 O'clock in the morning and finally he was seen to be going on his Maruti Car at 9:22 along with 3-4 persons and they were seen going towards the village. Mr. Ajay Kumar Thakur has also pointed out towards the statement of witnesses recorded in paragraph 187 and 188 of the case diary and the said witnesses who claims to have seen the accused persons fleeing does not name the petitioner Niraj Kumar Singh. It has further been pointed out that the brother of a co-accused namely Akshay Yadav had also given statement before the police and had



admitted that they were having personal differences with the deceased and they were not happy with the conduct of the ex-Mukiya Arvind Yadav. Learned counsel, Mr. Ajay Kumar Thakur, has thus summarized his submissions that from the perusal of the electronic evidence, the CDR, the pen drive containing the statement of accused Manish Kumar, statement of witnesses recording during the course of investigation it is evident that the petitioner Niraj Singh had no role to play in the said incident and he has falsely been implicated by the informant and even from the perusal of the Bank account statement, there is no money transaction to support the fact that the petitioner had indeed received any amount in lieu of such crime. It has thus been submitted that the petitioner, though has two criminal cases against his name, he is in custody since 12.01.2025 in the present case.

6. Mr. Jitender Kumar Singh, the learned senior counsel appearing on behalf of the informant has opposed the prayer for bail of the petitioners and has begun his argument controverting the submissions made by the learned senior counsel for the petitioners that the informant was a chance witness. It has been stated by the learned counsel for the informant that the informant was following his brother on the



motorcycle and he had witnessed the incident and had narrated the same in the written report on the same day and his allegations are also being proved from the perusal of the antimortem injuries found on the body of his brother, Arvind Kumar Yadav, which suggests total six entry wounds which was caused by firearms and five exit wounds found on the body of the brother of the informant. The learned senior counsel has referred to the statements of the two persons who have supported the prosecution case and has also stated that the petitioners had tried to evade, however, they were arrested on 12.01.2025. The learned senior counsel has pointed out towards the two other paragraphs of the case diary at para 187 and 188, wherein the witnesses have stated about the petitioners namely, Mohammad Nazir and his son at the place of occurrence. The learned senior counsel appearing on behalf of the informant has also stated that the firearm injuries were found on the vital parts of the body and there was a clear cut intention of the petitioners to eliminate the brother of the informant and even if taking the statement of Abhishek Kumar Yadav, a non-FIR named co accused into account, it would be evident that he has stated that the petitioner Muhammad Nazir Alam had conspired in the killing of the brother of the informant, namely, Arvind Yadav.



Mr. Jitendra Kumar Singh, the learned senior counsel appearing on behalf of the informant has pointed out at the anomalies and the high handedness of the police in connivance with the petitioners stating therein that in the case in which Abhishek Yadav was arrested and he had subsequently confessed his culpability in the present case, it was only Abhishek Yadav who was made an accused, however, he had given his statement in the said case, naming the petitioner Mohammad Nazir to have conspired in the said killing. He has further pointed out that from the statement of Abhishek Yadav, it would be clear that the meeting was also held at the place of the petitioner Mohammad Nazir and as such, he was an active participant in the present incident and had conspired along with other accused persons in killing the brother of the informant. The learned senior counsel has pointed out that the defence of *alibi* of the petitioners is not supported by cogent evidence as it is not clear as to when they had reached the hospital, where the daughter-in-law of petitioner Mohammed Nazir was admitted. He has also pointed out to Para 162 of the case diary wherein the CDR of Mohammed Nazir is taken note of wherein it is found that he was in touch with the other accused person, namely Niraj Singh and had talked to him on the fateful day. Mr. Jitender Singh, the



learned senior counsel lastly submits that taking the said evidence into account coupled with the fact that the petitioner Mohammed Nazir has seven criminal antecedents and if he is released, the trial of the case will suffer and therefore, the petitioners do not deserve bail.

7. The learned APP for the State has concurred with the arguments of learned Senior Counsel for the informant and has vehemently opposed the prayer for bail stating that the informant was an eye witness to the occurrence and he has named the petitioners and thus they should not be enlarged on bail.

8. On consideration of the materials on the record, it appears that the role in the commission of murder has been attributed to other accused persons who were apprehended during the course of investigation and have confessed their involvement in the present case. The implication of the petitioners is not being supported enough by the evidence which has come during the course of investigation and it is found that no substantive material has been shown to indicate direct involvement of the petitioners in the actual commission of the offence. It is true that the petitioners have criminal antecedents and at this stage, it cannot be the sole ground for denial of bail,



particularly, when the nature of the evidence which is presently available does not point out to the exact role of the petitioners in the murder and the same remains to be established through cogent material during the trial and hence, considering the totality of circumstances, the nature of implication of the petitioners and the further evidence which has come during the course of investigation, let the petitioners above-named, be released on bail on each of them furnishing bail bonds of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Uchkagaon P.S. Case No. 12 of 2025 subject to the strict following conditions :

a. The petitioners shall cooperate with the investigation and appear before the Investigating Officer as and when required.

b. They shall not tamper with the evidence or influence witnesses in any manner. They shall not indulge in any criminal activity during the period of bail.

c. They should not leave the jurisdiction of the trial court without prior permission of the learned court below.

d. One of the bailors of the



petitioners shall be their close relative.

d. And further condition that the court below shall verify the criminal antecedent of the petitioners and in case at any stage it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. 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.

e. It is made clear that any breach of the above conditions or involvement or the petitioners in similar offence or in any other case in future will result in cancellation of bail.

9. It is made clear that the observations, if any, made in this order, shall be of no bearing during the trial.

(Sourendra Pandey, J)

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