IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47223 of 2025

Arising Out of PS. Case No.-129 Year-2025 Thana- KHAGAUL District- Patna

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Shailendra Kumar @ Chiku @ Chiku Yadav S/O Sanjeet Kumar Singh R/O Village- Kothwa, P.S- Khagaul, Distt.- Patna.

... ... Petitioner

Versus

The State of Bihar

... ... Opposite Party

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Appearance :

For the Petitioner	:	Mrs.Nivedita Nirvikar, Sr. Advocate Mr.Shashank Shekhar, Advocate Mr.Patanjali Rishi, Advocate Ms.Riya Raj, Advocate
For the State	:	Mr.Anand Kishore Choudhary, APP
For the Informant	:	Mr.Amit Shrivastava, Sr. Advocate Mr.Apurv Harsh, Advocate Mr.Manu Tripurari, Advocate Mr.Raghu Raj Pratap, Advocate Mr.Pranshu Prakash, Advocate Mr.Hirtik Anand, Advocate Ms.Jaya Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA

ORAL ORDER

11 01-12-2025 Heard Mrs. Nivedita Nirvikar, learned senior counsel appearing on behalf of the petitioner, Mr. Amit Shrivastava, learned counsel for the informant and Mr. Anand Kishore Choudhary, learned A.P.P. for the State.

2. The accused/petitioner seeks bail in connection with Khagaul P.S. Case No. 129 of 2025 registered for the offences under Sections 308(5), 111(2), 111(3), 339, 3(5) of the Bhartiya Nyay Sanhita, 2023 (in short, the 'B.N.S.').

3. The accused/petitioner is named in the First Information Report and is in custody since 17.04.2025.

<u>Brief facts of the case</u>

4. As per FIR, the informant namely, Kumar Gaurav alleged that he alongwith Rakesh Ranjan and Jiaullah were running the business of building construction since 2010. In 2023, he started the construction work over 18 kathha of land situated in Kothwa village, where total 38 flats were to be constructed.

4.1 It is alleged that after one week of the bhumi Pujan, one Pinku Yadav informed the *Munshi* of the project that if he want to make construction work on the aforesaid land, he would have to purchase the building materials from him.

4.2. The informant further alleged that Pinku Yadav brother of MLA of Danapur called him regarding purchasing of building construction materials as per direction of concerned MLA, else he would not be able to get the construction done over the land. Thereafter, the informant started to procure the construction material from the said

Pinku Yadav to avoid hurdles in the business, but said Pinku Yadav did not supply bills of the said materials.

4.3. The informant further alleged that as per the calculations of the purchased materials, Rupees Nineteen Lakhs were due to Pinku Yadav, but Pinku Yadav and Dheeraj demanded Rupees Thirty three lakhs. When the informant objected to pay such demand, he was told that the rate of the area was determined by the MLA and he would have to pay the money.

4.4. The informant further alleged that a week before Diwali in the year 2024, a call was received by the partner of the informant namely, Rakesh Ranjan and the caller identified himself as MLA Ritlal Yadav, who called him to meet. The informant went to the house of the MLA situated at Kothwa with Rakesh Ranjan, and asked for his wishes, then the MLA informed the informant that he was in need of some money, which the informant expressed his inability to pay such demand because he had started the work recently. Then, the MLA threatened the informant to work as per the system if he intended to work in the area.

4.5. The informant further alleged that after a few days the MLA called his partner (Rakesh Ranjan) and asked the informant to make payment of Rupees Thirty three lakhs only of the construction materials and demanded Rupees Fifty lakhs to work smoothly in his area. Thereafter, the informant agreed to pay Rupees Thirty lakhs out of which he paid Rupees Four lakhs. After some days, the informant was forced to sign on a stamp paper containing narration that he had taken loan of Rupees Thirty lakhs only and he would be returned the remaining amount of the same in two installments of Rupees Thirteen lakhs only after Diwali and Chhatth.

4.6. The informant alleged that since the remaining amount was not paid he was being threatened to life from various phone numbers and the nephew of the MLA Dheeraj, Brother-in-law Chiku and goons Shrawan etc. came over the site of the informant and abused and threatened him and his labourers and drove them away on the direction of the MLA. The informant alleged that he had stopped the construction work out of fear. The informant further alleged that one Sunil Mahajan who managed the extortion money of the MLA came to him and offered to get the issue settled.

4.7. The informant further alleged that the brother-in-law of the MLA namely, Chiku Yadav met the informant at Kothwa site and told that he was sent by the MLA and threatened him as to how he purchased the land in the area without permisison of the MLA Ritlal Yadav and asked him to arrange for Rupees Ten lakhs. The informant further alleged that on the next day, one person came with Chiku yadav, to whom he gave the money out of fear. The informant alleged that call recording of the demand of ransom by MLA Ritlal Yadav was preserved by the informant in his phone as an evidence.

5. On the basis of the aforesaid written report, formal F.I.R. has been registered against the petitioner alongwith other named co-accused persons, which registered as Khagaul P.S. Case No. 129 of 2015 dated 10.04.2025.

6. Mrs. Nivedita Nirvikar, learned senior counsel appearing on behalf of the petitioner, submitted that apparently from perusal of the FIR, it appears that the matter is arising out of business dispute for supplying TMT Bar and other building construction materials. It is pointed out that informant admitted liability of Rs. 19 Lakhs, but as it was accounted for Rs. 33 Lakhs by firm, who supplied the materials, the entire dispute surfaced.

7. It is submitted by Mrs. Nirvikar that a suspicion was raised that this petitioner alongwith his brother-in-law namely, Ritlal Yadav, MLA of the area, who is also the co-accused in this case, with collusion of the material supplier raised such exorbitant bills for Rs. 33 Lakhs. It is also submitted that allegation of obtaining signature of the

informant on stamp paper is available against co-accused. This petitioner was not even alleged to be remained present at that point of time.

8. Arguing further, Mrs. Nirvikar submitted that the entire episode took shape when the balance of Rs. 26 Lakhs was asked to pay by material supplier to the informant and when said payment was delayed, it was alleged that the nephew of MLA namely, Dhiraj, Chiku Yadav (this petitioner) and one of their associates namely, Shrawan came over to the site and stopped construction work and abused the labours. In this context, it is submitted that co-accused Dhiraj Kumar @ Dhiraj has already granted privilege of anticipatory bail by one of the learned coordinate Bench of this Court through Cr. Misc. No. 46743 of 2025 dated 10.11.2025 and co-accused namely, Sunil Mahajan @ Sunil Kumar @ Sunil Gupta was granted bail by learned trial court itself through B.P. No. 2283/2025 dated 09.10.2025.

9. It is further submitted that in last part of the FIR, one further allegation surfaced against this petitioner as to threat the informant to pay Rs. 10 Lakhs on the next date

when the person of MLA would approach him and it is alleged that the said amount of Rs. 10 Lakhs was paid to that person. It is submitted that even the amount of Rs. 10 Lakhs was not paid to this petitioner and if it was paid to any third person, it was paid against admitted liability out of materials received for ongoing construction work by the informant.

10. Explaining criminal antecedents, it is submitted by Mrs. Nirvikar, that though as per case diary, petitioner found involved in three cases, but out of information of family members, the petitioner found involved in total of nine cases prior to lodging of this FIR, where three or four cases are for the violation of Corona Guidelines i.e. under the Epidemic Diseased Act, 1977 and Disaster Management Act, 2005, and in all the cases, the petitioner is on bail.

11. It is also pointed out that informant is also man of criminal antecedent found involved in five criminal cases.

12. Arguing further, Mrs. Nirvikar submitted that the allegation is also of organized crime against the petitioner being a member of syndicate's vengeance, and being man having significant muscle influence in the area and being

repeated offender, who poses a direct and immediate threat to public safety, more particularly the witnesses and the rule of law. Explaining this aspect, Mrs. Nirvikar, submitted that to make any person accused in the offences of organized crime as newly introduced through section 111 and 112 of the B.N.S., he must be charge-sheeted at least in two cases in last preceding ten years. It is submitted that prior to lodging this FIR, the petitioner was accused in one such case which is of the year 2010, in which charge-sheet was submitted and, therefore, legal criteria is not suggesting that nature of allegation is convincing on its face qua organized crime. In this context, Mrs. Nirvikar referred **Section 111 of the B.N.S**, which are as under for ready reference:

> **"111. Organized Crime: -** (1) Any continuing unlawful activity including kidnapping, robbery, vehicle theft, extortion, land grabbing, contract killing, economic offence, cyber-crimes, trafficking of persons, drugs, weapons or illicit goods or services, human trafficking for prostitution or ransom, by any person or a group of persons acting in concert, singly or jointly, either as a member of an organised crime syndicate or on behalf of such syndicate, by use of violence, threat of violence, intimidation, coercion, or by any other unlawful means to obtain direct or indirect material benefit including a financial benefit, shall constitute organised crime.
> *Explanation.*---For the purposes of this sub-section,---
> (i)"organised crime syndicate" means a group of two or

more persons who, acting either singly or jointly, as a syndicate or gang indulge in any continuing unlawful activity;

(ii) "continuing unlawful activity" means an activity prohibited by law which is a cognizable offence punishable with imprisonment of three years or more, undertaken by any person, either singly or jointly, as a member of an organised crime syndicate or on behalf of such syndicate in respect of which more than one charge-sheets have been filed before a competent Court within the preceding period of ten years and that Court has taken cognizance of such offence, and includes economic offence;

(iii) "economic offence" includes criminal breach of trust, forgery, counterfeiting of currency-notes, bank-notes and Government stamps, hawala transaction, mass-marketing fraud or running any scheme to defraud several persons or doing any act in any manner with a view to defraud any bank or financial institution or any other institution or organisation for obtaining monetary benefits in any form.

(2) Whoever commits organised crime shall,---

(a) if such offence has resulted in the death of any person, be punished with death or imprisonment for life, and shall also be liable to fine which shall not be less than ten lakh rupees;

(b) in any other case, be punished with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine which shall not be less than five lakh rupees.

(3) Whoever abets, attempts, conspires or knowingly facilitates the commission of an organised crime, or otherwise engages in any act preparatory to an organised crime, shall be punished with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine which shall not be less than five lakh rupees.

(4) Any person who is a member of an organised crime syndicate shall be punished with imprisonment for a

term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine which shall not be less than five lakh rupees.

(5) Whoever, intentionally, harbours or conceals any person who has committed the offence of an organised crime shall be punished with imprisonment for a term which shall not be less than three years but which may extend to imprisonment for life, and shall also be liable to fine which shall not be less than five lakh rupees:

Provided that this sub-section shall not apply to any case in which the harbour or concealment is by the spouse of the offender.

(6) Whoever possesses any property derived or obtained from the commission of an organised crime or proceeds of any organised crime or which has been acquired through the organised crime, shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to imprisonment for life and shall also be liable to fine which shall not be less than two lakh rupees.

(7) If any person on behalf of a member of an organised crime syndicate is, or at any time has been in possession of movable or immovable property which he cannot satisfactorily account for, shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to imprisonment for ten years and shall also be liable to fine which shall not be less than one lakh rupees."

13. It is further submitted that no rigorous provisions either in B.N.S. or in B.N.S.S. is available like section 21(4) of MCOCA or section 37 of N.D.P.S. Act or section 45 of PMLA Act, which to be considered while dealing with bail petition of accused. It is submitted that in want of any rigorous provisions, the bail prayer of organized crime be

also dealt like other offences of BNS.

14. In support of aforesaid submission, learned senior counsel relied upon the legal report of Hon'ble Supreme Court as available through **Gokul Bhagaji Patil Vs. State of Maharashtra and Anr.** reported in **(2007) 2 SCC 475; Sanjay Chandra Vs. Central Bureau of Investigation** reported in **(2012) 1 SCC 40** and **Satender Kumar Antil Vs. Central Bureau of Investigation and Anr.** reported in **(2022) 10 SCC 51.**

15. Arguing further, Mrs. Nirvikar submitted that petitioner was found involved in nine cases, but in all cases he is on bail, as discussed aforesaid and if the factual aspect of this case is otherwise convincing in favour of petitioner merely on the basis of his criminal antecedents, the prayer of bail of the petitioner should not be ordinarily denied under the principle that jail is exception, bail is the rule. Mrs. Nirvikar placed reliance of the legal report of Hon'ble Supreme Court as available through **Prabhakar Tewari Vs. State of U.P. and Another** reported in **(2020) 11 SCC 648**.

16. While opposing the prayer of bail of the

petitioner, Mr. Amit Shrivastava, learned senior counsel appearing on behalf of the informant, submitted that petitioner is the brother-in-law of main kingpin namely, Ritlal Yadav, who is MLA of the area and notorious criminal having 36 criminal antecedents. It is submitted that petitioner being relative work together with co-accused Ritlal Yadav and others and committed crime in very organized manner. It is submitted that almost no construction work is possible in the locality without permission of this accused persons including petitioner and, therefore, the informant was forced to purchase the materials from the shop of the co-accused i.e. Deepak Yadav who is a material supplier and, therefore, the implication of petitioner as available through section 111 of the BNS is completely justified.

17. In support of submission, Mr. Srivastava submitted that this petitioner was also co-accused in Khagaul P.S. Case No. 123 of 2010 where the main co-accused Ritlal Yadav was also co-accused, which shows his collusion with the main co-accused and their activities as organized crime.

18. It is pointed out that no doubt liberty is the

sacrosanct but the seriousness of heinous or grave offences be dealt strictly to maintain the public confidence in the administration of justice. In support of his submission, Mr. Srivastava relied upon **para 2** of the legal report of Hon'ble Supreme Court as available through **Ashok Dhankad Vs. State of NCT of Delhi and Anr.** reported in **2025 SCC OnLine SC 1690,** which reads as under:

> "**2.** The grant of bail constitutes a discretionary judicial remedy that necessitates a delicate and context-sensitive balancing of competing legal and societal interests. On one hand lies the imperative to uphold the personal liberty of the accused-an entrenched constitutional value reinforced by the presumption of innocence, which remains a cardinal principle of criminal jurisprudence. On the other hand, the court must remain equally mindful of the gravity of the alleged offence, the broader societal implications of the accused's release, and the need to preserve the integrity and fairness of the investigative and trial processes. While liberty is sacrosanct, particularly in a constitutional democracy governed by the rule of law, it cannot be construed in a manner that dilutes the seriousness of heinous or grave offences or undermines public confidence in the administration of justice. The exercise of judicial discretion in bail matters, therefore, must be informed by a calibrated assessment of the nature and seriousness of the charge, the strength of the prima facie case, the likelihood of the accused fleeing justice or tampering with evidence or witnesses, and the overarching interest of ensuring that the trial proceeds without obstruction or prejudice."

19. Mr. Srivastava also relied upon **para 25** of the legal report of Hon'ble Apex Court as available through **Kamla Devi Vs. State of Rajasthan and Anr.** reported in **(2022) 6 SCC 625,** which reads as under:

> "**25.** This Court has, on several occasions discussed the factors to be considered by a court while deciding a bail application. The primary considerations which must be placed at balance while deciding the grant of bail are : (*i*) the seriousness of the offence; (*ii*) the likelihood of the accused fleeing from justice; (*iii*) the impact of release of the accused on the prosecution witnesses; (*iv*) likelihood of the accused tampering with evidence. While such list is not exhaustive, it may be stated that if a court takes into account such factors in deciding a bail application, it could be concluded that the decision has resulted from a judicious exercise of its discretion, *videGudikanti Narasimhulu* v. *Public Prosecutor* [*Gudikanti Narasimhulu* v. *Public Prosecutor*, (1978) 1 SCC 240 : 1978 SCC (Cri) 115] ; *Prahlad Singh Bhati* v. *State (NCT of Delhi)* [*Prahlad Singh Bhati* v. *State (NCT of Delhi)*, (2001) 4 SCC 280 : 2001 SCC (Cri) 674] and *Anil Kumar Yadav* v. *State (NCT of Delhi)* [*Anil Kumar Yadav* v. *State (NCT of Delhi)*, (2018) 12 SCC 129:(2018) 3 SCC (Cri) 425]"

20. Taking note of the aforesaid factual and legal submission of the parties and admittedly as the present dispute *prima facie* arises out of billing dispute regarding supplying of building materials, as discussed aforesaid, where *prima facie* this petitioner was not charge-sheeted in two or more similar offences in last ten preceding years in view of section 111 of the B.N.S., coupled with the fact that the co-accused who threatened the informant, was granted anticipatory bail by one of the learned coordinate Bench of this Court, whereas as per FIR, the balance amount of Rs. 10 Lakhs which alleged to be paid as ransom also not appears *prima facie* to be received by this petitioner, where

investigation of this case is already concluded and also petitioner remains in custody since 17.04.2025, accordingly, above-named petitioner is directed to be released on bail, furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand only) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate–1, Patna /concerned court, in connection with Khagaul P.S. Case No. 129 of 2025, subject to the condition as laid down under Section 437(3) Cr.P.C/Section 480(3) of the Bhartiya Nagarik Suraksha Sanhita (in short “B.N.S.S.”).

(Chandra Shekhar Jha, J)

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