

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56122 of 2025

Arising Out of PS. Case No.-178 Year-2023 Thana- GAYA MUFASIL District- Gaya

Rajesh Kumar @ Bhola Choudhary S/o- Lal Choudhary @ Nand Lal Choudhary R/V- Salempur PS- Mufassil Dist- Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ansul, Sr. Adv. Mr. Anuj Kumar, Adv.
For the Opposite Party/s	:	Mr. Binod Kumar, APP
For the Informant	:	Mr. Rajesh Kumar Sharma, Adv.

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL ORDER

3 10-09-2025 Heard learned counsel for the petitioner and learned APP for the State.

2. The petitioner seeks bail in connection with Muffasil P.S. Case No. 178 of 2023 instituted for the offence under Sections 302, 120(B)/34 of the Indian Penal Code and Section 27 of the Arms Act.

3. The petitioner had earlier moved before this Hon'ble Court with a prayer for grant of anticipatory bail which was dismissed vide order dated 25.09.2023 passed in Cr. Misc. No. 43866 of 2023. The dismissal was challenged before the Hon'ble Apex Court under Special Leave to Appeal (Crl.) No(s)



13068 of 2023 which was also dismissed on 13.10.2023.

4. Prosecution case in brief is that there is allegation against the petitioner of being involved in the murder of the husband of the informant by firing. It is alleged that the petitioner along with other co-accused persons having arms in their hands were seen by the informant while fleeing by motorcycle.

5. It has been submitted on behalf of the petitioner that the petitioner is in custody since 28-04-2025. Petitioner bears five criminal antecedents and, in all of them, he is on bail, as per disclosure made in paragraph No. 3 of the bail application.

6. It has been further submitted by the petitioner's counsel that petitioner has been falsely implicated in the present case. There is no specific or direct allegation of any overt act against the petitioner rather the same is general and omnibus in nature. There is no eye-witness to the alleged occurrence. No independent witness has supported the prosecution case till date. He further submits that there is delay of one day in lodging the F.I.R. that too without there being any plausible explanation for the same which creates doubt in the veracity of the prosecution case. Learned counsel for the petitioner further submits that from careful perusal of the F.I.R., it appears that the name Bhola



(the petitioner) has been inserted later on which signifies that such an addition has been an after-thought. Learned counsel for the petitioner further submits that at the time of occurrence, the petitioner was in his house under the surveillance of C.C.T.V. camera and the S.H.O. of the Mufassil police station of this case took the C.C.T.V. camera and D.V.R. forcefully from the petitioner's house against which the petitioner has filed a petition in the Bihar Human Rights Commission questioning the police officials for miss-investigation of the case and the Commissioner, finding the allegation true, instructed the D.G.P., Bihar for proper investigation by the Criminal Investigation Department. The Informant is not the eye-witness to the alleged occurrence and allegedly she has seen the individuals running away from the place of occurrence and not any particular individual or individuals firing upon the deceased. He further submits that nothing incriminating has been recovered from the conscious possession of the petitioner.

7. Learned counsel for the petitioner has specifically submitted that other similarly situated co-accused, namely, Sinku has been granted regular bail by this Court *vide* order dated 05-07-2024, passed in Cr. Misc. No. 27548 of 2024. Co-accused Dhiraj Kumar @ Dheeraj Singh has also been granted



regular bail by this Court vide order dated 10.01.2025 passed in Cr. Misc. No. 81513 of 2024.

8. Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner and submitted that this case relates to commission of murder, hence, the petitioner does not deserve the privilege of regular bail.

9. Learned counsel for the Informant has filed counter affidavit in the matter stating therein that the Informant herself is an eye-witness of the whole occurrence and the deceased has also himself taken the name of the accused persons before his death. Learned counsel for the Informant distinguishing the present case submits that petitioner is the mastermind behind murder of the informant's husband and has no parity with other accused who got privilege of bail from this Hon'ble Court. He further submits that other accused persons who were released on regular bail by this Hon'ble Court after custody of about one and half year but, the petitioner, who deliberately evading from the process of court, was arrested by the police after issuance of process under Section 82 and 83 of the Cr.P.C. He further submits that the petitioner is in custody for about five months whereas other co-accused persons who were present at the place of occurrence has remained in custody for almost one and half



years and, hence, the petitioner does not deserve bail.

10. Considering the aforesaid facts and circumstances of the case, period of custody of the petitioner, the prayer for bail being based on parity as also taking into account the materials available on record, this Court is inclined to grant bail to the petitioner.

11. Let the petitioner be released on bail, ***after framing of charge if not already framed***, on furnishing bail bonds of Rs. 15,000/- (Fifteen Thousand) with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with Muffasil P.S. Case No. 178 of 2023, subject to the following conditions:

(i) One of the bailor(s) shall be the own/close family members of the petitioner.

(ii) The petitioner shall cooperate 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 in the event of failure on two consecutive dates without sufficient reasons, his bail bond shall be liable to be cancelled by the court below.

(iii) If the petitioner tampers with the evidence or the witnesses of the case by intimidating/pressurizing the witnesses,



during the investigation or trial, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(iv) If the petitioner is found indulged in any criminal activity or commission of any crime after being released on bail, the prosecution will be at liberty to file an appropriate application before the court below for cancellation of his bail.

(v) The petitioner will not leave the territorial jurisdiction of the learned court below without prior permission for the same.

12. In case of non-compliance of any of the terms and conditions stated herein above, the prosecution will be at liberty to file an appropriate application before the court below for cancellation of his bail.

(Rudra Prakash Mishra, J)

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