

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70573 of 2024

Arising Out of PS. Case No.-219 Year-2022 Thana- BALRAMPUR District- Katihar

Md. Wakib @ Md. Wakib Alam S/O Md. Hasim R/O Village- Sihagaon, P.S-
Balrampur (Talra), Dist.- Katihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajit Kumar Singh, Adv.

For the Opposite Party/s : Mr. Pronoti Singh, APP

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

4 17-01-2025 Heard Learned Counsel for the petitioner and
Learned APP for the State.

2. The petitioner is apprehending arrest in a case registered for the offences punishable in connection with Balrampur P.S. Case No.219 of 2022 under Sections 302, 120B/34 of the Indian Penal Code read with Section 27 of the Arms Act.

3. As per the prosecution, the occurrence took place on 07.11.2022 at about 8.40 A.M., the informant was sitting with her brother in front of the house then all of a sudden all the F.I.R. named accused persons fired upon her brother and due to which he died. It is further alleged that previously an attempt was made on her brother to kill him.

4. Learned Counsel for the petitioner submits that the



petitioner is innocent and has committed no offence. He submits that the petitioner has been falsely implicated in this case. He further submits that the petitioner is not named in the F.I.R. inspite of the fact that the informant has disclosed and specifically named 9 accused persons in this case, but name of petitioner has not been disclosed.

5. Learned Counsel further submits that in the entire case diary, nothing has come against the petitioner, but after about 60 days of the occurrence, the name of petitioner has come in this case by virtue of statement under section 161 of the Cr.P.C. from the two witnesses. Out of two witnesses, one witness is hearsay witness and only one witness all of a sudden narrated the name of the petitioner due to which the petitioner's name has been figured in this case.

6. Learned Counsel also submits that antecedent of the petitioner is clean. He further submits that the other named co-accused persons have been granted bail by the Co-ordinate Bench of this Court *vide* order dated 23.05.2023 passed in Cr. Misc. No. 26778/2023.

7. Learned APP for the State opposes the prayer for bail and submits that the petitioner is not named in the F.I.R. In the entire case diary, during investigation, his name has not



come for complete 60 days, but his specific name has come in paragraph 303 and 304 of the case diary. He fairly submits that though no action has been done by him as per the F.I.R., but it is the petitioner who has called the deceased and then the occurrence took place. But he admits that after complete investigation of 60 days, no material has come.

8. In the light of the submissions made and particularly when the informant is the eye witness and disclosed the specific name of total 9 accused persons in which the petitioner's name has not been disclosed. As such, in the present facts and circumstances, let the above named petitioner be released on anticipatory bail, in the event of arrest or surrender before the Court below within a period of 4 weeks from today, on furnishing bail bonds of Rs.30,000/- (Rupees Thirty thousand) with two sureties of the like amount each to the satisfaction of Addl. Chief Judicial Magistrate-VI, Katihar in connection with Balrampur P.S. Case No.219 of 2022, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. with other following conditions:-

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his *bona fide*;



(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bonds by the Trial Court itself;

(iii) the petitioner shall appear before the concerned police station every month for one year to mark attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidence, failing which the State shall be at liberty to take steps for cancellation of the bail bonds; and

(v) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of the bail bonds.

(Dr. Anshuman, J.)

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