

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79356 of 2024

Arising Out of PS. Case No.-596 Year-2019 Thana- MADHAURAH District- Saran

Abhishek Raj @ Abhishek Singh son of Om Prakash Singh Village- Pakahan
PS- Madhaurah District -Saran

... .. Petitioner/s

Versus

The State of Bihar bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Aditya Nath Pandey, Advocate Mr. Yeshoneel Ratnam, Advocate Mr. Aprajita Kumari, Advocate
For the Opposite Party/s :		Mr. Uma Shankar Prasad Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

5 16-05-2025 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner seeks bail in connection with S.
Tr. No. 193 of 2020 arising out of Marhaurah P.S. Case No. 596
of 2019 registered for the offences punishable under Sections
147, 148, 149, 323, 325, 326, 379, 332, 333, 307, 302, 504,
120(B) of the Indian Penal Code and Sections 25(1-b) a, 26, 35
and 27 of the Arms Act.

3. As per prosecution case, on 20.08.2019 at about
3:30 PM informant, along with other police officials proceeded
from Chapra to Marhaura and reached Marhaura Police Station
at 04.30 p.m. and talked with Officer-in-Charge of Marhaura
Police Station in respect of loot of mobile in Garkha P.S. Case



No. 512 of 2019 which was being used in Marhaura Bazar and, thereafter, proceeded for Chapra and reached at Marhaura Market in front of L.I.C. office. In the meantime, 8 to 9 persons having rifle, revolver and pistol came on Scorpio and 7 to 8 persons also came there on 4 to 5 motorcycles. All the miscreants got down from the Scorpio and motorcycles and started firing. It is further alleged that police party also tried to open fire in counter, but due to outnumbered of miscreants, the police team could not succeed in counter firing. It is further alleged that miscreants looted the pistols of Mithilesh Sah and Rajnish and AK-47 rifle of Farooque Alam. At the relevant time, petitioner and others were identified out of miscreants. It is further alleged by the informant that prior to 1½ years, in the case of dacoity relating to Rasoolpur Police Station, Rohit Kumar (Bodyguard of Meena Arun and her husband, Arun Singh) was apprehended and sent to jail and due to that reason Arun Singh and his wife Meena Arun (Chairman of the Zila Parishad, Chapra) in-collusion with nephew, Subodh Singh and other made conspiracy and committed the said occurrence. It is further alleged that from the place of occurrence, one rifle, one rod for cleaning the barrel of AK-47 rifle and empty cartridge were recovered. It is further alleged that in the said occurrence,



A.S.I. Mithilesh Sah and Constable, Farooque Alam, died.

4. Learned counsel for the petitioner submitted that on earlier two occasions prayer of bail of the present petitioner has already been rejected. He further submits that while rejecting the bail prayer of the present petitioner on 24.01.2024 this court has observed that if the trial is not concluded within six months, the petitioner may renew his prayer for bail. He further submits that total period of custody undergone by the petitioner is five years and nine months and trial has not been concluded as yet. He further submits that by virtue of filing an application under Section 311 of Cr.P.C. prosecution requested for examination of twenty nine witnesses and the Court has allowed for examination of twenty nine witnesses. Learned counsel orally submitted that 19 witnesses are yet to be examined and pace of trial does reflect that the trial is likely to be concluded in near future. There is no flight risk as petitioner has submitted through Paragraph 33 of the bail petition that he will remain physically present before the trial court on each and every date and he will also undertake that he will not create any hindrance in any manner during the course of the trial and he will fully cooperate in the trial. Petitioner bears one criminal antecedents and is in custody since 26.08.2019. He further



submits that on similar and identical allegation the bail prayer of co-accused Shatrudhan Singh @ Shatruhan Singh was rejected twice by this Court and vide order dated 20.12.2024 passed in Cr. Misc. No. 66381 of 2024 the said co-accused has been granted bail by the Co-ordinate Bench of this Court only on the ground that trial is not likely to be concluded in near future. Learned counsel submits that on the principle of parity, period of custody and trial is not likely to be concluded in near future, petitioner also deserves bail.

5. Learned A.P.P. for the State opposed the prayer for bail of the petitioner but conceded the fact that while rejecting the bail prayer of the present petitioner on 24.01.2024 this court has observed that if the trial is not concluded within six months, the petitioner may renew his prayer for bail.

6. Considering the facts and circumstances of the case, arguments advanced on behalf of the parties, materials available on record, period of custody undergone by the petitioner is near about 6 years, number of witnesses are yet to be examined which clearly indicates that the trial is not likely to be concluded in the near future and the delay of trial is not in any way attributable to the petitioner, co-accused has already been granted bail by the Co-ordinate Bench of this Court, let



the petitioner above named be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned A.D.J. IVth, Saran at Chapra in connection with S. Tr. No. 193 of 2020 arising out of Marhaurah P.S. Case No. 596 of 2019 subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

(iii) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Alok Kumar Pandey, J)

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