

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79226 of 2024

Arising Out of PS. Case No.-109 Year-2024 Thana- SAMASTIPUR MUFFASIL District-
Samastipur

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Dilip kumar Ray @ Dilip Ray S/o Ramashray Rai R/o Village- Hasanpur
Jitwarpur, ward no.15, P.S.- Mufassil, District- Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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with

CRIMINAL MISCELLANEOUS No. 80404 of 2024

Arising Out of PS. Case No.-109 Year-2024 Thana- SAMASTIPUR MUFFASIL District-
Samastipur

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Sumit Kumar @ Mahakal @ Mahajal Son of Ram Nandan Roy Resident of
Village - Hasanpur Jitwarpur, Ward No.15, Police Station - Mufassil, District -
Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 79226 of 2024)

For the Petitioner/s : Mr. Anant Kumar Mishra, Advocate

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

(In CRIMINAL MISCELLANEOUS No. 80404 of 2024)

For the Petitioner/s : Mr. Anant Kumar Mishra, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 23-01-2025 Heard the learned Advocate for the petitioners and the

learned APP for the State.

2. The petitioners seek regular bail, who are in

custody in connection with Sessions Trial No. 486 of 2024,

arising out of Samastipur Mufassil P.S. Case No. 109 of 2024,



registered for the offence punishable under Sections 302/34 of the Indian Penal Code and Section 27 of the Arms Act.

3. Based upon the written report, the prosecution alleges that the informant and his family members was having inimical term with villager *Laxman Rai* and on many occasion, he has given threat to kill his family members. It is further alleged that just about one and half months ago, co-accused *Laxman Rai* had been released from the custody and soon thereafter, the co-accused *Ritesh Kumar* and *Laxman Rai* had demanded a tractor from his father. On refusal, the accused persons had threatened to face the consequences. On 15.03.2024, while the father of the informant was sleeping, in the meanwhile, some persons came there and shot him dead.

4. Learned Advocate for the petitioners contended that the entire allegation revolves around co-accused *Laxman Rai* and *Ritesh Kumar*. However, during the course of investigation, the name of the petitioners have surfaced on the confessional statement of co-accused Prince Kumar. On the basis, thereof, the petitioner *Sumit Kumar @ Mahakal @ Mahajal* was apprehended and on the disclosure of the said accused, one country made pistol and live cartridges were recovered from the house of the petitioner *Dilip Kumar Ray @ Dilip Ray*. The said



Prince Kumar also disclosed that co-accused *Ram Chandra Mahto* had given Rs. 1,50,000/- to one *Sonu Kumar* to give it to the assailants. The entire confessional statement and the name of the petitioners are based upon the disclosure made by the spy. There is no cogent material suggesting the complicity of the petitioners in the crime, except that, on the confessional statement of the petitioner no. 2 *Sumit Kumar @ Mahakal @ Mahajal* recovery of arms have been made from the house of *Dilip Kumar Ray @ Dilip Ray*. However, there is no ballistic report or any scientific evidence that the recovered arm was used in the crime. The co-accused, on whose confession, the name of the petitioners have surfaced, he has been allowed the privilege of regular bail by this Court in Cr. Misc. No. 66721 of 2024 vide order dated 04.10.2024. Learned Advocate for the petitioners further contended that it is surprising that during the course of investigation, the police has not found any materials against the accused *Laxman Rai* and *Ritesh Kumar*, as is evident from para 81 of the case diary. The petitioners have been incarcerated since 01.07.2024. The investigation of the crime is complete and the charge-sheet has been submitted.

5. On the other hand, learned APP for the State vehemently opposes the bail application and submits that it is



the petitioner *Sumit Kumar @ Mahakal @ Mahajal*, on whose disclosure, the arm, which is said to have been used in the crime has been recovered from the house of petitioner *Dilip Kumar Ray @ Dilip Ray*. Both the petitioners bear one criminal antecedent each.

6. Regard being had to the submissions made on behalf of the parties and considering the materials available on record, disclosing the fact that on the disclosure made by the petitioner *Sumit Kumar @ Mahakal @ Mahajal*, recovery has been made from the petitioner *Dilip Kumar Ray @ Dilip Ray*, this Court is not acceded to the prayer for bail of the petitioner for present.

7. However, taking note of the fact that the co-accused person, on whose confession, the name of the petitioners have been surfaced, he has been allowed the privilege of bail by this Court, the petitioners shall be released on bail on or after framing of the charge by the Court below itself, after verification of their criminal antecedent, as disclosed by them.

8. Accordingly, the bail application stands dismissed, with the aforesaid observation.

(Harish Kumar, J)

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