

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.79240 of 2024**

Arising Out of PS. Case No.-344 Year-2023 Thana- DALSINGHSARAI District- Samastipur

Rakesh Kumar @ Raka Son of Sudhir Choudhary @ Sudhir Kumar  
Chaudhary village - Mathurapur , Police station - Dalsinghsarai , District -  
Samastipur

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

**Appearance :**

For the Petitioner/s : Mr.Mahendra Pratap, Advocate

For the Opposite Party/s : Mrs.Dr. Indihar Kumari,APP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA**  
**ORAL ORDER**

3      29-01-2025                      Heard learned counsel appearing on behalf of the  
  
petitioner and learned A.P.P. for the State.

2. Petitioner seeks bail in connection with Sessions  
Trial No. 89 of 2024 arising out of Dalsinghsarai P.S. Case No.  
344 of 2023 registered for the offences under Sections 307, 34  
of the Indian Penal Code and Section 27 of the Arms Act.

3. The petitioner is not named in the First Information  
Report and is in custody since 21.11.2023.

4. Allegation against the petitioner is to open fire  
alongwith unknown accused persons on 24.08.2023 at around  
00:35 a.m., upon four labourers who were sleeping in the room  
of Upgraded Middle School, Ashin Chak, Samastipur.

5. It is submitted by learned counsel appearing on



behalf of the petitioner that name of this petitioner transpired from the confessional statement of Shivam Choudhary @ Pollard, who has already granted bail by the learned trial court vide B.P. No. 22C/2023 dated 02.02.2024, where in furtherance of said confessional statement, no incriminating material was recovered/surfaced during course of trial so as to connect the petitioner *prima-facie* with the present occurrence of firing.

6. It is pointed out that merely on the fact that this petitioner was found involve in four criminal cases, his prayer of bail was rejected by the learned trial court. It is pointed out that criminal antecedent cannot be the sole criteria for rejecting the prayer of bail. In support of his submission, learned counsel relied upon the legal report of Hon'ble Supreme Court as available through **Prabhakar Tewari Vs. State of Uttar Pradesh and Anr.** reported in **(2020) 11 SCC 648.**

7. While concluding argument, it is submitted that investigation of this case is completed and, as such, there is no chance of tampering with the evidence.

8. Learned A.P.P. for the State has opposed the prayer for bail of the petitioner.



9. In view of aforesaid factual submission and by taking note of fact as save and except suspicion arising out of confessional statement of co-accused Shivam Choudhary @ Pollard, nothing incriminating appears against this petitioner *prima-facie* as to connect him with the present occurrence of firing, coupled with the fact that petitioner is in custody since 21.11.2023, and as investigation of this case has already completed, 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 Sessions Judge, Dalsinghsarai, Samastipur/concerned court, in connection with Sessions Trial No. 89 of 2024 arising out of Dalsinghsarai P.S. Case No. 344 of 2023, 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)

Rajeev/-

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