

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4808 of 2026

Arising Out of PS. Case No.-118 Year-2024 Thana- GOPALGANJ TOWN District-
Gopalganj

Mahtab Alam @ Lal Babu Son of Late Mohammad Jad R/o Village - Takiya
Yakub, P.S - Gopalganj, District - Gopalganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Y.V. Giri, Sr. Advocate Mr. Ranjan Kumar Srivastava, Advocate Mr. Shashwat Srivastava, Advocate
For the State	:	Ms. Meena Singh, APP
For the Informant	:	Mr. Amit Shrivastava, Sr. Advocate Mr. Mritunjay Kumar, Advocate Mr. Girish Pandey, Advocate Mr. Md. Danish Quamar, Advocate Mr. Dkash Ambuj, Advocate

CORAM: HONOURABLE MR. JUSTICE SOURENDRA PANDEY
ORAL ORDER

4 01-05-2026 This is the second regular bail application on behalf of
the petitioner.

2. Heard Mr. Y.V. Giri, learned Senior Advocate assisted by Mr. Ranjan Kumar Srivastava, Advocate and Mr. Shashwat Srivastava, Advocate for the petitioner, Mr. Amit Shrivastava, learned Senior Advocate assisted by Mr. Mritunjay Kumar, Advocate for the informant and Ms. Meena Singh, learned APP appearing on behalf of the State.

3. The petitioner seeks bail in connection with Gopalganj P.S. Case No. 118 of 2024 registered for the offences under Sections 302, 120B and 34 of the Indian Penal Code and



Section 27 of the Arms Act.

4. The prosecution case is to the effect that while the father of the informant was going to the railway station along with one Munna on his motorcycle, it is alleged that two named accused persons, namely Mahtab Alam @ Lal Babu (the petitioner) and Fahim @ Saddam, came on a motorcycle from behind and the petitioner fired at the father of the informant, who sustained injuries and subsequently died. The accused persons thereafter fled from the spot with other accused persons who were waiting for them.

5. Mr. Y.V. Giri, the learned senior Advocate for the petitioner submits that the petitioner has falsely been implicated on account of personal rivalry and the informant cannot be said to be an eyewitness to the occurrence. It is further submitted that the inquest report was prepared in the presence of the informant; however, the informant did not take the name of the petitioner and other persons involved in the commission of such offence, and only as an afterthought, the name of the petitioner was given. It has been submitted by the learned Senior counsel that admittedly the incident is of 9:20 in the night; however, no means of identification has been disclosed by the informant. It has further been submitted that the wife of the petitioner had



approached this court by filing a writ application and thereafter, further investigation was done and supplementary case diary was prepared, and in paragraph 39 of the said diary, there is a reference of a CCTV footage which shows that the petitioner was not present at the place of occurrence, rather was present at the house of Vinay Pratap Singh to attend some function.

6. It has further been submitted that one person, namely Deepak Upadhyay, has confessed about his complicity in the crime along with one Deepak Ram, and on his confessional statement, the arms used in the crime has also been recovered. It has been submitted that the charge sheet has been submitted against both Deepak Upadhyay and Deepak Ram, and the petitioner has no concern with them.

7. The learned Senior counsel for the petitioner has submitted that the deceased, himself, was a veteran criminal and was named in ten criminal cases.

8. The learned Senior counsel has also pointed out that this said Deepak Upadhyay and Deepak Kumar Ram have been granted regular bail by a coordinate Bench of this Court. It has also been submitted that the person sitting on the motorcycle has also been granted bail, and the petitioner is in custody since 08.02.2025.



9. Mr. Amit Srivastava, the learned Senior counsel appearing on behalf of the informant submits that the petitioner was involved in the murder of the father of the informant and the clout between the murderer and the petitioner has come during the course of investigation. It has been submitted that during the course of investigation, the tower location of the son of the informant was found somewhere else and not of the petitioner. It has further been submitted that once the charge sheet was submitted against the petitioner and his son and even cognizance taken on 15.04.2025, the re-investigation thereafter is in teeth of the judgment of the Hon'ble Supreme Court in case of *Vinay Tyagi vs. Irshad Ali @ Deepak and Others*, reported in **(2013) 5 SCC 762**. Referring to para 54, the learned Senior counsel submits that the same goes on to show that any further investigation was not in accordance with law and was only used to help the petitioner by the police. It has further been submitted that the submission made by the learned Senior counsel for the petitioner that Deepak Ram had no connection with the petitioner is also wrong, as Deepak Kumar Ram, in his confessional statement, as contained in para 43 of the supplementary case diary, has specifically stated that he was asked by the petitioner and one Chote Mukhiya to carry out



such murder and for which Rs. 6 lakhs was also paid for killing Aslam Mukhiya and therefore the complicity of the petitioner is *writ large*.

10. The learned Senior Counsel has referred to the judgment passed in the cases of ***Jaibunisha vs. Meharban & Anr. (in 2022 INSC 55)*** and ***Ashok Dhankad vs. State of NCT of Delhi and Anr.*** reported in ***2025 INSC 974***, and has stated that the Hon'ble Supreme Court has opined that in cases of heinous crimes, regular bail should not be granted without analyzing the pros and cons of release. It has also been submitted that the petitioner should not be released on the basis of some unverified CCTV footage, which can only be proved during the course of trial.

11. Learned APP supports the arguments of learned Senior Counsel appearing on behalf of the informant and has submitted that there is no change in circumstances and therefore the second application of bail may not be entertained.

11. Considering the arguments forwarded by the learned Senior Counsel appearing on behalf of the petitioner as well as the informant and also the learned Additional Public Prosecutor, this Court has noted the fact that earlier the bail application of the petitioner was rejected by this Court taking



into account the fact that the person who was going on the motorcycle along with the deceased, namely Amanul Haque, in his statement recorded before the police, has stated that Mahtab (the petitioner) and Fahim Ali came on a motorcycle and it was Mehtab who shot upon the father of the informant, since deceased. This Court had also noted that Fahim Ali, in his confessional statement, has also confessed that it was Mahtab (the petitioner), who shot upon the father of the informant, resulting in his death and he was accompanying him on the motorcycle on the fateful day.

12. This Court has been persuaded by the learned Senior Counsel appearing on behalf of the petitioner, bringing the fact with regard to the re-investigation which had taken place pursuant to the order of this Court passed in a writ petition preferred by the wife of the petitioner. From perusal of the said order, as contained in Annexure P-6 of the bail application, only a direction was given to the Deputy Inspector General of Police, Saran Range, Chapra, to act in accordance with law. A subsequent finding by the police pursuant to such order with respect to the examination of CCTV footage in and around the place of occurrence is being asserted on behalf of the petitioner to be looked into in order to release the petitioner on bail.



13. It is a settled law that electronic evidence, especially without any supportive document, cannot form basis at the time of consideration of a bail application and can only be tested in a full-fledged trial. This is more important in view of some categorical statements being made by the witnesses during the course of investigation that it was the petitioner who had shot upon the father of the informant and therefore, at this stage, consideration of other electronic evidence cannot be gone into in order to consider the bail application. It is a settled law that the court cannot venture into a threadbare analysis of the evidence adduced by the prosecution and merits of such evidence cannot be adjudicated at the stage of bail. This court has observed that the informant has categorically named the petitioner to have fired upon his father and the said fact has been supported by Amanul Haque and moreover, the grant of bail to Deepak Kumar Ram and Deepak Upadhyay cannot come to the rescue of the petitioner, especially for the fact that their confessional statement could not have been taken into account at the stage of bail and moreover, if their statements are considered, then the association of those accused persons with the petitioner also cannot be ruled out. It cannot also be ruled out that the two accused persons, who have confessed to the



crime, may have been planted to save the main culprits.

14. In view of the aforesaid discussions, I am not inclined to release the petitioner on bail.

15. The application stands dismissed.

(Sourendra Pandey, J)

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