

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16377 of 2026

Arising Out of PS. Case No.-422 Year-2016 Thana- MOTIHARI TOWN District- East
Champaran

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Dewa Gupta S/O Hari Kishore Gupta R/O Mohalla- Ward No 18, Barhai Tola,
P.S- Chhtauni, District- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mrs. Nandita Rao, Sr. Advocate
		Mr. Nilanjan Chatterjee, Advocate
		Mr. Kumaresh Singh, Advocate
		Mr. Ujjwal Raj, Advocate
		Mr. Sahil Kumar, Advocate
		Mr. Anirvan Choudhari, Advocate
		Mr. Jyoti Prakash, Advocate
For the State	:	Mr. Ajay Mishra, APP

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

2 25-03-2026 The petitioner seeks bail, apprehending his arrest, in connection with Motihari Town P.S. Case No. 422 of 2016 dated 03.07.2016, registered for the offences punishable under Sections 307, 34, 120B of the Indian Penal Code and Section 27 of the Arms Act.

2. As per allegation, on 02.07.2016 at about 9:00 AM, the informant was talking with one Keshav Kumar near Ananddham temple, Belwanwa. Meanwhile, two persons came on one Apache motorcycle and started firing at Keshav Kumar in which the informant received gunshot injury in his arm and



hence, he was taken to Sadar hospital, Motihari, whereas Keshav Kumar was referred to Patna.

3. Heard learned counsel for the petitioner and learned APP for the State.

4. Learned counsel for the petitioner submits that the petitioner is innocent and there is no legally admissible material on record against the petitioner. She further points out that the FIR was lodged in the year of 2016 on the 2nd day of July and till date, three charge-sheets have been already submitted, but in none of them, the petitioner was made accused. Only on the basis of confessional statement of co-accused before the police, the petitioner is being hauled up with intent to harass him and even as per the confessional statement, there is no allegation that he has any overt act in the assault. At most, there is allegation of providing assistance to the accused persons for which there is no material on record to support the allegation.

5. She further submits that no incriminating material has been recovered from the possession of the petitioner. She also submits that for want of any legally admissible material against the petitioner, there is no basis for denial of anticipatory bail to the petitioner.

6. She further submits that during the last nine years,



the petitioner was never summoned or called in connection with this case and even police did not find any material against the petitioner in investigation.

7. She also submits that the petitioner is an active politician and there is no likelihood of running away from the society and he is ready to co-operate in the investigation and attend the Court whenever required. The petitioner is also ready to comply with any terms and conditions as might be directed by this Court.

8. However, learned APP for the State vehemently opposes the prayer of the Petitioner for bail submitting that the petitioner is a man of criminal antecedents of 30 cases. He further submits that in his confessional statement, co-accused/Yuvraj Prabhu has stated that the petitioner is one who provides protection and economic assistance to the assailants of the victim/Keshav Kumar as emerges from the para-40 of the first supplementary case diary and as per para-61 of first supplementary case diary, the petitioner is a land mafia and due to rivalry, their associates have fired at the victim/Keshav Kumar.

9. He also submits that the co-accused/Rakesh Kumar Singh in his confessional statement, as mentioned in para-92 of



the first supplementary of the case diary, has stated that due to rivalry, he along with his associates Laddu Miya and Lal Saheb have fired at the victim/Keshav Kumar. The victim/Keshav Kumar, as mentioned in para-56, 57 and 58 of the 2nd supplementary affidavit, has stated that at the instance of the petitioner, co-accused persons have fired at him.

10. By way of reply, learned counsel for the petitioner submits that in other criminal cases filed against the petitioner, he is either on bail or has been discharged or acquitted and in five criminal cases, the petitioner is not named in the FIR, but the police is showing them pending against him.

11. I considered the submissions advanced by both the parties and perused the material on record.

12. It transpires that the subject FIR has been lodged on 03.07.2016 for offence punishable under Section 307 read with Section 34 of the Indian Penal Code and Section 27 of the Arms Act. However, later on, Section 120B of IPC was also added in the FIR. It further transpires from the rival contentions of the parties that during the last nine years, nothing has been found against the petitioner.

13. I further find that even today, the best case of the prosecution against the petitioner is the confessional statements



of the co-accused before the police. But such statement has no evidentiary value at all for want of any discovery in pursuance of such statements and it is not a case of the prosecution that any incriminating material has been recovered against the petitioner.

14. In such situations, even criminal antecedents, which may be of large number, can not lead to denial of liberty to the accused. Law will take its own recourse against the petitioner in cases previously instituted against him. Moreover, as stated by learned counsel for the petitioner, in the previously instituted cases, the petitioner is either on bail or already discharged or acquitted.

15. As such, there is no legally sustainable material against the petitioner to curtail his precious liberty as granted and guaranteed by the Constitution. Moreover, the petitioner has deep root in the society and there is no possibility of his running away from the society. The petitioner is ready to co-operate in the investigation and attend the Court whenever required.

16. Considering the aforesaid facts and circumstances, **this petition is allowed**, directing the petitioner, above-named, to be enlarged on bail, in the event of his arrest or surrender before the court below within a period of eight weeks from the



date of receipt / production of a copy of this order, on his furnishing bail bonds in the sum of Rs. 1,00,000 /- (One lakh) with two sureties of the like amount each to the satisfaction of learned concerned Court below, in connection with Motihari Town P.S. Case No. 422 of 2016, subject to the conditions as laid down under Section 482 (2) of the B.N.S.S 2023, and on the following conditions:

(i) In case, it is brought to the notice of the court below that the petitioner has any criminal antecedents other than the disclosed ones, learned court below shall cancel the bail bonds of the petitioner after hearing him and getting satisfied that the petitioner has concealed his criminal antecedents despite his knowledge of the same.

(ii) In case, it is brought to the notice of the court below that statement regarding previous bail petition is wrong, learned court below shall cancel the bail bonds of the petitioner.

(Jitendra Kumar, J)

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