

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14691 of 2025

Arising Out of PS. Case No.-228 Year-2024 Thana- DARBHANGA District- Darbhanga

Sajan Kumar Thakur S/O Late Anil Thakur Resident of Village- Jitugachhi
Fulwari, P.S.- Town, District- Darbhanga

... .. Petitioner/s

Versus

The State of Bihar Patna

... .. Opposite Party/s

Appearance :

For the Petitioner	:	Mr. Harsh Singh, Advocate Mr. Ugranath Mallik, Advocate
For the State	:	Mr. Shailendra Kumar Singh, APP
For the Informant	:	Mr. Padmanabh Kashyap, Advocate Mr. Deepak Kumar, Advocate

CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

5 24-02-2026 Heard Mr. Harsh Singh, learned counsel for the petitioner, Mr. Padmanabh Kashyap, learned counsel for the informant and Mr. Shailendra Kumar Singh, the learned APP for the State.

2. The petitioner seeks bail in a case registered for the offence punishable under Section 103/3(5) of the Bharatiya Nyaya Sanhita, 2023 and Section 27 of the Arms Act.

3. The case of the prosecution is that the petitioner and another took the brother of the informant on motorcycle from his house and, subsequently, informant's brother was found dead. The deceased before his death made a call to the informant on her mobile and told the name of the petitioner that he along with other tried to kill him.



4. At the outset, learned counsel for the petitioner submits that he is not pressing the present application on merits but confines himself to the ground of illegal detention of the petitioner. He invites the attention of this Court to para-29 of the case diary which contains the confessional statement of one Md. Adil recorded on 07.11.2024 at 9:55 pm, however para-32 indicates the arrest of the petitioner and also indicates the time as 10:05 pm on same day i.e. on 07.11.2024. Para-38 further indicates that the petitioner was forwarded on 09.11.2024 to the Court. On the basis of such facts, it has been submitted that the detention of the petitioner had been illegal as he was not produced before the Magistrate within 24 hours which is the mandate of law, as such, he deserves to be granted bail on this score alone. To buttress his submissions, learned counsel for the petitioner has relied on the judgment of the Hon'ble Apex Court in the case of **Directorate of Enforcement Vs. Subhash Sharma** reported in **2025 SCC OnLine SC 240**, wherein it has been held that if the accused is not produced to the nearest learned Magistrate within 24 hours, the grant of bail to him by the concerned High Court is completely justified, as it involves the question of infringement of the fundamental rights of the accused guaranteed under Articles 21 and 22 of the Constitution



and the arrest in such cases stands vitiated and when the arrest itself is illegal/vitiated, bail cannot be denied. It is further pointed out that the petitioner is in custody since 07.11.2024 and after framing of charge four out of eight witnesses have been examined.

5. Learned APP for the State and learned counsel for the informant vehemently opposed the bail petition on the ground that the petitioner is in custody since 07.11.2024 and prayer for bail on the ground of illegal detention is being taken in the year 2026. It would have been in all propriety to raise such issue of illegal detention at a much earlier stage by way of challenging such illegal detention and not when the trial has proceeded, charges have been framed and the witnesses are being examined. It has further been argued that even on merits, the deceased has been brutally done to death and besides the fact that his name appears in the First Information Report itself with the allegation that he was the one, who had taken the deceased along with him and the subsequent disclosure made by the deceased himself of the name of the petitioner with regard to causing his death would also amount to the last words of the deceased before his death. Learned counsel for the informant has placed reliance on the judgment of the Hon'ble



Apex Court passed in the case of **X Vs. State of Rajasthan and another** reported in **2024 INSC 909** to submit that in serious offences like rape, murder, dacoity etc., once the trial commences and the prosecution starts examining its witnesses, the Court, be it the Trial Court or the High Court should be loath in entertaining the bail application of the accused as has been held in para-14 of the said judgment. It is also pointed out that the petitioner has as many as nine criminal antecedents, besides the fact that one eye witness has also been examined during the course of investigation in para-66 of the case diary, who has attributed the allegations on this petitioner of opening fire at the deceased and the postmortem report also corroborates the factum of death on account of firearm injury.

6. Taking into consideration the facts and circumstances of the case and the rival contentions raised on behalf of the parties, this Court does not deem it proper to delve into the question/ground of illegal detention of the petitioner in the year 2024 at this stage of consideration of bail of the petitioner in the year 2026, as such ground being urged earlier is neither apparent from the order of the learned Sessions Judge nor has been pleaded in the entire bail petition filed before this Court, especially in view of the fact that the



trial is in progress and four out of eight charge-sheet witnesses have already been examined. Thus, in the background of the fact that there is specific allegation of opening fire, as stated by the deceased telephonically to the informant, eye witness account being available, confession of co-accused leading to recovery of weapon, coupled with the fact that the petitioner has nine criminal antecedents and the trial is progressing and four witnesses have already been examined, at such an advanced stage of trial, this Court does not deem it proper to release the petitioner on bail on consideration of ground raised on behalf of the petitioner. Accordingly, the prayer for bail of the petitioner stands rejected.

7. However, the learned Trial Court is directed to expedite the trial and since only four witnesses remain to be examined, the learned Trial Court would expedite the trial and preferably conclude the same within a period of six months.

8. It goes without saying that any observations made in the present order shall not affect the merits of the case and shall not prejudice the petitioner in any manner.

(Soni Shrivastava, J)

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