

IN THE COURT OF ADDITIONAL SESSIONS JUDGE-I
S.Tr. Case no. 274/2021

Sunil Yadav @ Sunil KumarPetitioner

Vs.

The State of Bihar.....O.P.

**Arising out of Khaira P.S. Case No.- 467/2020 under sections 147, 148, 149, 323, 376, 511, 379,
302, 120B of I.P.C. and section 27 of the Arms Act**

Learned counsel for the Petitioner.....Sri. Makeswar Prasad Yadav, Advocate

Learned counsel for the StateSri. Ramakant Singh, A.P.P.

**PRESENT-DHIRENDRA BAHADUR SINGH
ADDITIONAL SESSIONS JUDGE-I, JAMUI**

DATE OF ORDER- 11-01-2024

ORDER

11.01.2024

1. A regular bail application dated- 16.12.2023 filed on behalf of petitioner namely (i) **Sunil Yadav @ Sunil Kumar s/o Gendo Yadav r/o village – Thansinghdih (Ghuthia), P.S. - Lokai-Nayanpur, District – Giridih (Jharkhand), in connection with Sessions Trial Case no. 274/2021 is put up before me for hearing today. Petitioner has been in custody since 08.09.2023.**

2. Learned counsel for the petitioner submitted that after cancellation of bail bond the petitioner never moved any bail application either before this court or before any Hon'ble Superior Court. He further submitted that earlier he was on bail and his bail bond was cancelled on 07.01.2023 as no pairvy was made on behalf of accused. He further submitted that except the present case, two more cases are pending against the petitioner as per disclosure of the pairvykar and if the declaration regarding the criminal antecedent will be found wrong, only the *Pairvikar* will be responsible. He further submitted that other co-accused persons have been allowed bail by this Court and case of the petitioner stands on similar footing. He also submitted that petitioner never misused the privileges of bail intentionally or deliberately and he is ready to furnish bail bond to the satisfaction of the Court. Hence prayed to allow the regular bail application of the petitioner.

3. On the other hand learned A.P.P. strongly opposed the bail application and submitted that in this case on 28.11.2022 a petitioner u/s

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317 of Cr.P.C. has been filed on behalf of this petitioner and two witnesses were present in the Court but no one turned up to cross-examine those witnesses on behalf of petitioner. He further submitted that from the perusal of case record it is apparent that petitioner deliberately left the pairvy after 28.11.2022. He further submitted that the after examination of witness on 28.11.2022 the accused never turned up in the Court for about next ten months without any explanation and due to absence of the accused / petitioner the trial of the case got hampered. Hence prayed to dismiss the regular bail application of the petitioner.

4. Having heard the submission of the parties and from perusal of the case record it appears that on 28.11.2022 two witnesses namely Runa Devi and Mundrika Yadav were present and they disclosed in the Court that on 24.11.2022 they were attacked by the accused persons including the petitioner by means of fire arms and several rounds of bullets were fired upon them and for that Tisri P.S Case no. 111/2022, u/s 147/ 148/ 149/ 307 IPC and section 27 of Arms Act was lodged by the witness Mundrika Yadav. From perusal of the fardbeyan of Mundrika Yadav recorded in connection with Tisri P.S Case no. 111/2022 it is apparent that all the accused persons of the present case have been pressuring to withdraw the present case which has been lodged for murder of son of the witness Mundrika Yadav. On 21.10.2022 daughter of witness Mundrika Yadav appeared in the Jamui Court and deposed and the next date was fixed on 28.11.202. On 24.11.2022 at about 6pm the informant reached at his house and parked his motorcycle and in the meantime Pradeep Yadav made firing upon the witness and other accused persons Devendra Prasad Yadav, Pramod Yadav, Chhotu Yadav @ Budhka Yadav, British Yadav, Sunil Yadav (petitioner), Kedar Yadav chased Mundrika Yadav and made firing with intent to kill the witness Mundrika Yadav and anyhow he got his life saved by concealing himself in Ravidas Tola and his life was saved by the grace of God. Again on 29.11.2022 brother of this petitioner namely Anil Yadav along with other co-accused Pramod Yadav and Neeraj Kumar were moving in a Scorpio Vehicle along with fire arms with

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intent to kill the witness Mundrika Yadav and they were caught red handed with fire arms by Tisri Police and for that Tisri P.S Case no. 113/2022 was registered u/s 25(1-B)a, 26, 35 of the Arms Act.

5. It is apparent from the perusal of F.I.R of Tisri P.S Case no. 111/2022 and Tisri P.S Case no. 113/2022 and the case record of the present case -

(i) That the petitioner has not only misused the privileges of bail deliberately, rather he challenged the entire justice delivery system and even the Ld. Counsel working for him has deliberately abstained from cross-examination of the witnesses on 28.11.2022, even after filing petition u/s 317 of Cr.P.C. on behalf of petitioner.

(ii). There is no explanation on the part of the petitioner that under what circumstances after examination of two prosecution witnesses on 28.11.2022, even after filing petition u/s 317 of Cr.P.C no one turned up on his behalf to cross-examine the witnesses and even subsequently he deliberately never appeared for a long-long time in the Court.

(iii). The petitioner was granted bail on the condition that the petitioner shall be present in the court on each and every date during trial and his absence on two such consecutive dates without reasonable explanation shall entitle his bail bonds for cancellation and the bail bond of the petitioner shall become liable to be cancelled in case he is found engaged in any such crime of similar nature in near future. Thus it is above board that the petitioner misused the privileges of bail and contravened the conditions of his bail and he never deserves to be enlarged on bail. The petitioner never disclosed his criminal antecedents properly in his bail application para no. 3.

6. Considering aforesaid facts and circumstances and the deliberate misuse of privileges of bail on the part of petitioner, I am not inclined to enlarge him on bail and as a result the regular bail application of the petitioner is hereby dismissed.

Dictated

A.D.J.-I, Jamui