

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35765 of 2015

Arising Out of PS.Case No. -438 Year- 2014 Thana -KISHANGANJ District- KISANGANJ

1. Arshad @ Irshad @ Arshad Zaman son of Mainuddin Resident of village- Halim Chowk Khagra, P.S.- Kishanganj, District- Kishanganj

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Viveka Nandsingh

For the Opposite Party/s : Mr. G.S.Gupta(App)

CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA
ORAL ORDER

4 15-12-2015 Heard learned counsel for the petitioner and learned counsel representing the State.

The petitioner seeks bail in connection with Kishanganj P.S. Case No. 438 of 2014 registered for the offence punishable under Section 364 of the Indian Penal Code.

The petitioner is not named in the FIR but during investigation name of the petitioner transpires on the basis of photograph captured in CCTV Camera and further the spy also stated regarding the involvement of the petitioner.

Submission is of false implication and that earlier the informant filed Kishanganj P.S. Case No. 130 of 2013 naming 16 persons as accused and 10-15 unknown and that case after investigation was not found true and accordingly, final form was



submitted and thereafter, the informant filed this case naming 8 accused persons. Co-accused Nishat @ Nishat Alam has confessed his guilt but he has not named the petitioner although he has named Isteyak @ Tinku and others. Co-accused Nishat @ Nishat Alam and Isteyak @ Tinku have already been allowed bail vide order dated 20.07.2015 passed in Cr. Misc. No. 18166 of 2015 and 20625 of 2015 and further Firdaush Khan @ Firdos who is also named in the confessional statement has been allowed bail vide Cr. Misc. No. 12569 of 2015 vide order dated 29.07.2015 by another co-ordinate Benches of this Court. Chargesheet has already been submitted, the petitioner is in custody since 30.08.2014 and there is no chance of tampering with prosecution evidence. It is further submitted that so-called CCTV footage is very weak evidence and does not link the petitioner with the alleged crime.

Learned APP opposes the prayer of bail by submitting that the name of the petitioner has transpired on the basis of photograph captured in CCTV Camera.

In the facts and circumstances stated above, considering that other co-accused who have confessed their guilt have been allowed bail, the petitioner above named is directed to be released on bail on execution of bail bond of Rs. 10,000/- (ten thousand)

with two sureties of the like amount each to the satisfaction of learned Sessions Judge, Kishanganj in S. T. No. 104 of 2015 arising out of Kishanganj P.S. Case No. 438 of 2014, subject to the conditions that one of the bailors must be a near relative and another having sufficient immovable property within the territorial jurisdiction of the court concerned and the petitioner shall remain present on each and every date during trial and the default on two consecutive dates on his part without any reason shall disentitle the petitioner from privilege of bail.

(Jitendra Mohan Sharma, J)

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