

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13018 of 2019

Arising Out of P.S. Case No.-528 Year-2010 Thana- GANDHIMAIDAN District- Patna

MD. AFSAR @ AFSARIYA (M), aged about 32 years, Son of Late Md. Ishak, Resident of Village-Sabjibagh Jamun Gali, P.S. Pirbahore, District-Patna.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Raj Dular Sah, Advocate

For the Opposite Party/s : Mr.Braj Kishore Pd., APP

CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

2 06-03-2019 Heard the learned counsel for the petitioner and
learned counsel appearing on behalf of the State.

Petitioner is languishing in judicial custody since 06.11.2018 in connection with Gandhi Maidan P.S.Case No.528 of 2010 for the offence alleged under Section 302/34 of the Indian Penal Code and Section 27 of the Arms Act.

The prosecution case as lodged by the informant Munni Devi is that her husband Sanjay Paswan was taken away by seven persons named in the FIR who took him in a lane and specific allegation is upon co-accused Md. Azad and Md. Rikky to have fired on the husband of the informant who while being taken to the hospital was declared dead.

It has been submitted by the learned counsel for the



petitioner that he is not named in the FIR and has been falsely implicated only on the confessional statement of co-accused Md. Azad who has been acquitted along with the FIR named accused by the Fast Track Court-I, Patna vide order dated 24.03.2018 in Sessions Trial No.925 of 2011. He further submits that chargesheet has already been submitted, there being no allegation of tampering with the prosecution evidence.

However, learned APP for the State opposes the prayer for bail stating therein that the petitioner does not bear a clean antecedent and two more cases are pending against him.

Considering the facts and circumstances and the materials on record, let the petitioner, above named be released on bail on furnishing bail bond of Rs.10,000/- (rupees ten thousand) with two sureties of the like amount each in connection with Gandhi Maidan P.S.Case No.528 of 2010 to the satisfaction of learned Additional Chief Judicial Magistrate-X, Patna, subject to the following conditions:-

(i) One of the bailors would be a close relative of the petitioner having sufficient immovable property, who will file an affidavit stating his relationship with the petitioner.

(ii) Petitioner will appear before the learned court below during trial as and when required and failure to appear on



two consecutive dates without assigning any reason will entail cancellation of his bail bonds.

(iii) If the petitioner indulges in an offence of similar nature in future, the prosecution will be at liberty to move the learned Court below for cancellation of his bail bonds.

(Nilu Agrawal, J)

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