

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.5993 of 2020**

Arising Out of PS. Case No.-206 Year-2018 Thana- KHAGARIA District- Khagaria

BRAJESH YADAV @ BRAJESH KUMAR YADAV S/O Chandradev Yadav
Resident of Village - Barkhandi Tola, P.S. - Muffasil, District - Khagaria.
... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Binod Kumar, Advocate
For the Opposite Party/s : Mr.Zainul Abedin, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

4 10-07-2020 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

Petitioner, in the present case, is seeking anticipatory bail in connection with Khagaria (Muffasil) P.S. Case No. 206/2018 G.R. No. 886/2018 registered for the offences under Sections 147, 148, 149, 341, 323, 307, 302, 448 of the Indian Penal Code and 27 of the Arms Act, pending in the court of learned C.J.M. Khagaria.

Learned counsel for the petitioner submits that earlier while calling for the case diary a learned co-ordinate Bench of this Court has granted provisional bail to the petitioner vide order dated 28.02.2020 and pursuant thereto the petitioner has surrendered and submitted his bail bonds.

Learned counsel for the petitioner submits that on



bare perusal of the first information report it would appear that it is a case of over implication inasmuch as altogether 23 persons have been named in the first information report with sole intention to implicate all of them who are said to be the co-sharers and they admit their prior enmity.

Learned counsel submits that the informant has thoroughly narrated in the FIR as to who killed whom and who had fired upon the injured. So far as the petitioner is concerned, there is no specific allegation of commission of any overt act against him. It is submitted that in the first information report there is general and omnibus allegations that all the 23 persons had come lashed with gun and rifle in their hands but so far as this petitioner is concerned, the only allegation against him is that while the brother of the informant was fleeing away this petitioner had caught him and caused him to fell down and thereafter, asked the co-accused to kill him.

It is submitted that it is superimposition in the first information report and the fact that this petitioner is an employee of North Bihar Power Distribution Company Limited, he was not present at the place of occurrence and in this connection his attendance sheet as contained in Annexure '2' has been brought on record.



Learned counsel for the petitioner further submits that the petitioner has also brought on record the earlier FIR being Khagaria P.S. Case No. 207 of 2018 which was lodged by the father of this petitioner against the informant and others. There is another FIR lodged by the uncle of this petitioner against the informant and others and the same is also on the record.

It is submitted that the learned co-ordinate Benches of this Court have granted provisional anticipatory bail to the co-accused who were allegedly members of the mob and in this connection the order passed by the learned co-ordinate Benches in Cr. Misc. No. 52379 of 2018 and Cr. Misc. No. 1112 of 2019 as also in Cr. Misc. No. 15621 of 2019 have been brought on record. It is further informed that co-accused Rajneeti Yadav has also been granted privilege of anticipatory bail by a learned co-ordinate Bench of this Court during the pendency of this application.

Learned APP for the State has though opposed the prayer for anticipatory bail of this petitioner by submitting that in fact this petitioner is the mastermind behind it and it has come in course of investigation that he had taken rupees three lacs from the deceased on the pretext of providing him a job, however, this Court has noticed that neither in the first

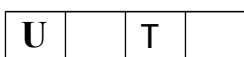


information report nor in course of investigation any overt act has been alleged against this petitioner. The petitioner is said to be a member of mob and similarly situated co-accused persons have been granted privilege of anticipatory bail by learned co-ordinate Benches of this Court, the petitioner is also employed in Public Sector company and there being no material at this stage to take a different view of the matter, this Court is inclined to grant similar privilege which has been granted to other similarly situated co-accused of this case, let the provisional anticipatory bail granted to the petitioner vide order dated 28.02.2020 is hereby confirmed on the same bail bonds.

The application stands allowed.

(Rajeev Ranjan Prasad, J)

arvind/rajeev



Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

