

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18247 of 2020

Arising Out of PS. Case No.-346 Year-2019 Thana- HARSIDHI District- East Champaran

Sheikh Afrad Ali @ Sheikh Afrad, Son of Late Najir, Resident of Village-
Chintamanpur, P.S.- Malahi (Gobindganj), District- East Champaran at
Motihari.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner	:	Mr.Prafull Chandra Jha, Advocate
For the State	:	Smt. Pushpa Sinha, APP
For the Informant	:	Mr. Shri Prakash Srivatava, Advocate

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 05-06-2020 This matter has been listed today for consideration
through video conferencing in view of the nationwide lockdown
on account of COVID-19 pandemic.

The learned counsels are appearing and making
submissions from their residence. The Court Master and
Secretary are also part of this virtual Court proceedings from
their homes, all with the aid of audio visual technology.

Heard learned counsel for the petitioner and the
learned APP for the State as well as the learned counsel for the
informant.

The petitioner seeks bail in connection with Harsidhi
P.S. Case No.346 of 2019 instituted for the offence punishable
under Sections 307, 302, 120B/34 of the Indian Penal Code and



Section 27 of the Arms Act.

The case of the prosecution is that the informant's son Shahid Hussain had gone to Motihari along with one Pintu Tiwary. Thereafter, the informant came to know that his son has been done to death by five named accused persons, including the petitioner.

The petitioner's Counsel submits that the petitioner has falsely been implicated in this case due to subsisting rivalry between the parties since long. Son of Petitioner-Sheikh Afrad Ali @ Sheikh Afrad was earlier killed. In relation to the said incident, the petitioner has lodged Gobindganj (Malahi) P.S. Case No.361 of 2018, in which the informant of the instant case was made an accused. It is submitted that from a bare perusal of the F.I.R. itself, it appears that the informant has not disclosed as to who has informed him about the complicity of the petitioner. It is further submitted that in Gobindganj (Malahi) P.S. Case No.361 of 2018, charge sheet has already been submitted against the informant. One Gobindganj (Malahi) P.S. Case No.362 of 2018 was also lodged by the police against the informant and his sons in respect of recovery of weapons in connection with Govindganj (Malahi) P.S. Case No.361 of 2018. The petitioner is in custody since



25.10.2019. It is submitted that other co-accused, namely, Naushad, has been allowed bail in Cr.Misc. No.12836 of 2020 on 03.06.2020.

Mr. Shri Prakash Srivastava, learned counsel appearing for the informant has opposed the prayer for bail. The case diary has been received in Cr.Misc. No.6453 of 2020, which is being considered along with the instant application. He, while referring to several paragraphs of the case diary, has submitted that several witnesses, independent as well as the prosecution witnesses, have supported the allegations during the course of investigation. It is further submitted that the petitioner-Sheikh Afrad Ali @ Sheikh Afrad was an accused in Turkaulia (Raghunathpur) P.S. Case No.438 of 2019, in which he was declared an absconder.

Petitioner's Counsel has submitted that the petitioner was allowed anticipatory bail in the aforesaid Turkaulia (Raghunathpur) P.S. Case No.438 of 2019, in which the informant has preferred an application for cancellation of bail before this Court in Cr.Misc. No.62410 of 2019. In so far as the allegations against the petitioner are concerned, it is submitted that the case of the petitioner is similar to the case of Naushad, who was allowed bail in Cr.Misc. No.12836 of 2020.



Learned APP for the State has opposed the prayer for bail.

Considering the rival submissions, this Court is inclined to allow petitioner's prayer for bail.

Accordingly, let the petitioner, above named, be released on bail on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, East Champaran at Motihari, in connection with Harsidhi P.S. Case No.346 of 2019, subject to the following conditions:

- (i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the court if there is any change in the address of the petitioner.
- (ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

(Madhuresh Prasad, J)

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