

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64251 of 2019

Arising Out of PS. Case No.-160 Year-2019 Thana- RAMNAGAR District- West Champaran

AURANGJEB KHAN Son of Late Noor Mohammad Khan Resident of
Village - Chaughariya, P.S.- Ramnagar, District- West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr.Binay Kumar
For the Opposite Party/s :	Mr.Nagendra Prasad
	Mr. Ravi Shanker Sahay

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

5 05-03-2020 Heard the learned counsel for the petitioner, the learned APP and the learned counsel for the informant.

The petitioner seeks bail in Ramnagar P.S. case No. 160/2019 registered under Section 302, 12B, 34 of the Indian Penal Code and u/s 27 of the Arms Act.

The informant is widow of the deceased. The informant alleged that in the previous night her husband disclosed that Raju Khan and others were conspiring to kill him due to land dispute. The informant further alleged that on the date of occurrence Chhote Khan took her husband towards pond and after 20 minutes she came to know that her husband was shot dead by the named accused persons in the FIR and others.

The learned counsel for the petitioner submits that informant named nine persons in the FIR and alleged that they were getting after her husband and when her husband arrived near the pond they made indiscriminate firing killing her husband on the spot. It is submitted that petitioner is not named in the FIR. The name of the petitioner surfaced in the case in the



confessional statement of Faiyaz Sah. Faiyaz Sah disclosed that petitioner conspired to kill Fakruddin on account of enmity and the occurrence took place in presence of the petitioner. It is further submitted that petitioner is own brother-in-law of the deceased and there is no tangible material on record to show the petitioner as conspirator of the crime. Mere confessional statement of co-accused, that too before the police, has no evidentiary value and the petitioner deserves bail.

Mr. Ravi Shanker Sahay, the learned counsel for the informant, as well as the learned APP opposed the prayer for bail of the petitioner. Mr. Sahay submits that petitioner was elected as Mukhia of the Panchayat and when the Panchayat was reserved for woman the petitioner got his wife stand in the election. The wife of the deceased also fought the election and she won the election. It is further submitted that sister-in-law of the petitioner divulged during the course of investigation that the petitioner was having grudge and enmity on account of election. It is further submitted that petitioner has always threatening the informant of dire consequences and he is bent upon to tamper with the evidence, therefore, the petitioner does not deserve bail.

Perused the FIR and the case diary.

It appears that petitioner is not named in the FIR. Name of the petitioner figured in the case in the confessional statement of Faiyaz Sah before the police. Faiyaz Sah disclosed that petitioner conspired to kill his own brother-in-law on account of enmity and the occurrence took place in the presence of the petitioner but save and except confessional statement the I.O. did not collect any tangible material to show that petitioner conspired to kill and in pursuance of such conspiracy the



occurrence took place. Of course, the petitioner has got criminal antecedent but the name of petitioner figured in the case in the confessional statement of co-accused, that too as conspirator.

Considering the facts aforesaid and the nature of allegation made against the petitioner, the petitioner, above named is directed to be enlarged on bail on his furnishing bail bond of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate III, Bagha, West Champaran in connection with Ram Nagar P.S. case No. 160/2019.

(Prabhat Kumar Jha, J)

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