

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18479 of 2021

Arising Out of PS. Case No.-183 Year-2020 Thana- PHULWARISHARIF District- Patna

Md Mushtaq @ Raja S/O Azhar Khan @ Kallu Harami R/O Naya Yola,
Almizaan Nagar, Nohsa, P.S-Phulwari Sharif, District-Patna-801505.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Priyadarshi Matri Sharan
For the Opposite Party/s	:	Mr. H.A. Khan
	:	Mr. Sheikh Arkan Ahmad

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 27-07-2021 Heard learned counsel for the petitioner and learned A.P.P. for the State through virtual court proceeding.

Learned counsel for the petitioner undertakes to remove the defects within four weeks of resumption of normal court proceeding. In the eventuality of non-removal of defects within undertaken period, the office will place the matter before the Bench.

The petitioner seeks bail in connection with Phulwari Sharif P.S. Case No. 183 of 2020 registered for the offence punishable under Sections 341, 323, 379, 302, 504, 34 of the Indian Penal Code.

As per the prosecution case, allegation against the petitioner is that petitioner in association with named accused persons, in an ambush, killed the informant's brother by means of knife blow, fists and slap.

It is submitted by learned counsel for the petitioner that



petitioner has falsely been implicated in this case and has not committed any offence as alleged in the FIR. No such occurrence as alleged ever took place. He submits that there is no specific overt act against the petitioner and petitioner is the member of the mob. He submits that brother of the informant was murdered by some unknown persons but just because the informant was having previous enmity with the petitioner's family, petitioner was falsely implicated in this case in connivance with police personnel. He further submits that confessional statement of the petitioner has been taken by coercion, force and undue influence by the investigating agency which has no legal or evidentiary value in the eyes of law. The allegation levelled against the petitioner is not specific rather general and omnibus in nature. The petitioner has three criminal antecedents as has been mentioned in para 3 of this bail application and has been languishing in custody since 09.05.2020.

Learned APP for the State and learned counsel for the informant vehemently opposed the bail petition submitted that petitioner is a veteran criminal of the locality.

Considering the facts aforesaid, the above named petitioner is directed to be enlarged on bail, on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Phulwari Sharif P.S. Case No. 183 of 2020 subject to the following conditions:



(1) One of the bailors will be own close relative of the petitioner who will give on affidavit genealogy as to how he is relative to petitioner. The bailor will also undertake to inform the court if there is any change in the address of the petitioner.

(2) The bailor shall also state on affidavit that he will inform the court concerned if the petitioner is made accused in any other case of similar nature after his release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of bail on ground of misuse.

(3) The petitioner shall remain physically present in the court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reasons, his bail bonds shall be liable to be cancelled by the learned court concerned.

(4) The petitioner shall co-operate with the investigation, if not already concluded and make himself available and when so required and in the case of failure, the State shall be at liberty to move for cancellation of bail.

(Anjani Kumar Sharan, J)

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