

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22030 of 2020

Arising Out of PS. Case No.-400 Year-2019 Thana- GOGRI District- Khagaria

MD. ISTIYAK Son of Mominat @ Mumim Resident of Village - Chhoti
Baliya, P.S.- Gogri, District - Khagaria.

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Binod Kumar

For the Opposite Party/s : Mr.Jai Kishore Poddar (APP)

**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL ORDER

3 12-02-2021 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor appearing on behalf of the State.

This application for grant of regular bail arises out of
Gogri P.S. Case No. 400 of 2019, G.R. No. 3442 of 2019
registered for the offences punishable under Sections 302/34 of
the Indian Penal Code and Section 27 of the Arms Act.

The petitioner is in custody since 23.11.2019. The
father of the deceased is the informant, who has alleged in the
F.I.R. that the petitioner had dragged the deceased out from his
house and thereafter he and other persons named in the F.I.R.
shot him dead. Previous enmity has been mentioned as the
reasons behind killing of the deceased by the petitioner. In the
written report which is the basis for registration of the F.I.R., the



informant had apparently disclosed that he was out of his house when the said occurrence had taken place and on getting the information he had gone to his house. In his further statement before the police, however, he is said to have told the police that he was there in the house when his son was dragged forcibly out of house by the petitioner, thus claiming to be an eyewitness of the said occurrence.

Learned counsel appearing on behalf of the petitioner has argued that apparently the informant is not an eyewitness, as is evident from the F.I.R., and in order to improve the case, he has stated in his further statement that he was present at that place at the time of occurrence.

Learned counsel appearing on behalf of the informant has vehemently opposed the prayer for bail and has submitted that considering the direct allegation against the petitioner, he does not deserve the privilege of regular bail.

Be that as it may, considering the apparent contradiction between the fact disclosed in the written report of the informant which is the basis for registration of F.I.R. and his further statement recorded by the police under Section 161 of the Cr.P.C. on the point of the informant being eyewitness, a case for grant of regular bail is made out.



This application is allowed.

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, Khagaria in Gogri P.S. Case No. 400 of 2019.

(Chakradhari Sharan Singh, J)

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