

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2218 of 2022

Arising Out of PS. Case No.-441 Year-2021 Thana- FORBESGANJ District- Araria

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Ajamul @ Md Ajamul, Son of Md. Mustkim, R/O Village- Rampur South,
Ward No.06, P.S.- Forbesganj, District- Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Anil Prasad Singh, Advocate
For the State	:	Mr.Madhuri Lata,APP
For the Informant	:	Mr. Rajeev Kumar, Advocate
		Mr. Gautam Shah, Advocate

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

4 16-11-2022 Heard learned counsel for the petitioner and learned
APP for the State.

Let the defect (s), as pointed out by the office, be
removed within a period of four weeks.

In the present case, the petitioner seeks bail in
connection with Forbesganj P.S. Case No. 441 of 2021
registered for the alleged offences under Sections 363, 364, 34,
302 and 201 of the Indian Penal Code.

As per prosecution case, petitioner and co-accused
Saddam kidnapped and killed the minor son of the informant in
the background of their earlier dispute with him.

Learned counsel for the petitioner submits that
petitioner has been falsely implicated in this case as prosecution

story is false, concocted and there is no truth in it. No occurrence as alleged in the F.I.R. has taken place. From the F.I.R. it is also apparent that there is no reason behind the dispute and no motive has been assigned for kidnapping and killing the son of the informant. There is no eye witness to the alleged occurrence. The deceased used to work in the chicken shop of the petitioner for quite long time and there was no dispute between them. However, the informant falsely implicated the petitioner merely on suspicion. Learned counsel further submits that whatever recovery has been made, it is at the instance of co-accused Saddam and though the petitioner was apprehended prior to the arrest of Saddam, nothing has been recovered at his instance. Moreover, whatever has been alleged in the confessional statement of co-accused Saddam, it has got no evidentiary value. Charge sheet has been submitted in this case and the petitioner is in custody since 21.06.2021. The petitioner has got no criminal history.

Learned APP for the State as well as learned counsel appearing on behalf of informant vehemently oppose the submission made on behalf of the petitioner. Learned counsel for the informant submits that a young boy was brutally assaulted and murdered by the petitioner and co-accused by

slitting his throat. The prayer for bail of the co-accused was rejected by this court vide order dated 20.09.2022 passed in Cr. Misc. No. 67663 of 2021. The case of the petitioner is similarly placed with the co-accused. However, learned counsel concedes that no recovery has been made at the instance of this petitioner.

Perused the records.

Having regard to the facts and circumstances and submission made on behalf of the parties and considering the fact that no recovery has been shown either from the petitioner or at his instance and there is further lack of material against this petitioner on record to connect him with the alleged offence and for this reason, his case is not at similar footing with co-accused Saddam who has been denied bail by this court and further considering the period of custody along with submission of charge sheet and clean antecedent of the petitioner, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate, 1st Class, Araria in connection with Forbesganj P.S. Case No. 441 of 2021, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions:

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

Gautam/daya

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