

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13062 of 2021

Arising Out of PS. Case No.-108 Year-2020 Thana- KURSAILA District- Katihar

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Md. Gurfan Alam @ Gurfan Alam, aged about 30 years, male, S/o- Md. Irfan
@ Md. Irfan Ali @ Molvi, R/o- Ujani, P.S.- Naugachhia, Distt.- Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Bakshi S.R.P. Sinha, Sr. Adv.
For the Informant	:	Mr. Poddar Suresh Gandhi, Adv.
For the State	:	Mr. APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

3 27-01-2022 Heard Mr. Bakshi S.R.P. Sinha, the learned Senior Advocate for the petitioner and Mr. Poddar Suresh Gandhi, the learned counsel for the informant. The State is represented by the learned APP.

The petitioner seeks bail in anticipation of his arrest in connection with Kursela P.S. Case No. 108 of 2020, dated 16.06.2020, instituted for the offences under Sections 302 and 120(B)/34 of the Indian Penal Code and



Section 27 of the Arms Act.

The informant is the father of the deceased, who has alleged that while his son was on his way to the Primary Health Centre for working as Lab Technician, he was shot dead by four accused persons. This information was given to him by the labourers working in the field in the vicinity of the place of occurrence. Those persons are said to have told him the names of the four assailants including that of the petitioner.

Mr. Bakshi S.R.P. Sinha, the learned Senior Advocate, has submitted that the source of information to the informant has not been disclosed in the F.I.R. In fact, during the course of investigation, no witness came forward to state about the petitioner having participated in the occurrence. All that the witnesses have said is that they learnt that the deceased was killed by four persons including the petitioner. It has thus been submitted that this is no evidence in the eyes of law.

Opposing to the aforesaid contention of the petitioner, Mr. Gandhi, the learned Advocate for the



informant has submitted that two of the persons, whose statements have been recorded in paragraph 82 and 114 of the case diary, have categorically stated that they learnt that the deceased was killed by four motorcycle borne criminals. He has further submitted that the petitioner has been made accused in another case in the month of December, 2021 in which there is a direct allegation against him.

In response to the aforesaid statement made on behalf of the informant, Mr. Bakshi has submitted that there is no statement by any person of having recognized the petitioner as having participated in the occurrence. He further submits that the accusation against the petitioner in another case about which reference has been made by the counsel for the informant is of much later origin and during the pendency of the present application. It has also been submitted that one of the co-accused persons of this case with similar allegation has been granted regular bail.

Taking into account the aforesaid circumstances and there being nothing definite against the petitioner, he, in the event of his arrest or surrender before the learned Court



below within a period of four weeks, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Katihar in connection with Kursela P.S. Case No. 108 of 2020, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

It is however cautioned that the petitioner shall participate in the trial, if the case goes to trial, and in the event of his trying to evade the investigative process or the trial proceedings or threatening the witnesses or the informant, the bail granted to him shall be liable to be cancelled. The petitioner, before leaving the territorial confines of the State, shall seek prior permission of the Trial Court.

The application stands allowed.

(Ashutosh Kumar, J)

Praveen-II/-

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