

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5460 of 2022

Arising Out of PS. Case No.-397 Year-2021 Thana- FATUA District- Patna

Pawan Kumar S/o Ram Sagar Prasad R/o Village- Uttarthu, P.S.- Bind,
District- Nalanda at present R/o- Ramkrishnanagar, P.S.- Ramkrishnanagar,
District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 10403 of 2022

Arising Out of PS. Case No.-397 Year-2021 Thana- FATUA District- Patna

Tinku Kumar s/o Ram Sagar Prasad r/o and p.s.- Ram Krishna Nagar,
District- Patna, At Vill- Uttarthu, P.S.- Bind, District- Nalanda.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 5460 of 2022)

For the Petitioner/s	:	Mr. Ramakant Sharma, Sr. Advocate
For the State	:	Mr. Navin Kumar Pandey, APP
For the Informant	:	Mr. Soni Shrivastava, Advocate
	:	Mr. Rajeev Kumar, Advocate

(In CRIMINAL MISCELLANEOUS No. 10403 of 2022)

For the Petitioner/s	:	Mr. Ramakant Sharma, Sr. Advocate
For the State	:	Mr. Navin Kumar Pandey, APP
For the Informant	:	Mr. Soni Shrivastava, Advocate
	:	Mr. Rajeev Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 19-09-2022

Cr. Misc. No. 5460 of 2022

Heard learned senior counsel appearing on behalf of
the petitioner, learned APP appearing on behalf of the State and
learned counsel for the informant.

Let the defect(s), if any, be removed within a period
of four weeks from today.



The petitioner seeks bail in connection with Fatuha P.S. Case No. 397 of 2021 registered for the offence under Sections 302, 307, 341 and 34 of the Indian Penal Code and Section 27 of the Arms Act.

The accused/petitioner is not named in the F.I.R. and is in custody since 09.06.2021.

The allegation against the petitioner is to commit murder of father of the informant, alongwith other co-accused persons by causing fire arm injury, while deceased was on his way to Patna.

Learned senior counsel, Mr. Ramakant Sharma, appearing on behalf of the petitioner submitted that informant is not the eye witness of the occurrence and entire allegation is based upon suspicion for the reason that petitioner is son-in-law of the deceased, who was involved in money transactions related with certain land deals. It is submitted that the only eye witness of this occurrence, as per F.I.R. is one, Anil Kumar, who failed to identify the petitioner. It is further submitted that recovery cannot be said in furtherance of confessional statement, as no registration number of alleged motorcycle or any marked identification surfaced during the course of investigation, prior to the confession of the petitioner and, as



such, having no bearing over accusation. While concluding the argument, it is submitted that petitioner is a man of clean antecedent and, moreover, investigation in this case is complete for which chargesheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP duly assisted by learned counsel for the informant, Ms. Soni Shrivastava, while opposing the prayer of bail, pointed out paragraph no.26 of the case diary, where programme of deceased was disclosed to this petitioner, being wife. It is further submitted by learned counsel for the informant that there is strong motive behind this occurrence as petitioner was found involved in several money transactions, as surfaced during the course of investigation, with the deceased. While concluding the argument, it is fairly conceded that informant is not the eye witness of the occurrence and prior to confession of this petitioner, the registration number or any specific mark of alleged recovered motorcycle was not surfaced during the course of investigation.

In view of the facts and circumstances, as mentioned above, as informant is not the eye witness of the occurrence, where recovery of motorcycle, on its face, cannot be said in furtherance of the confessional statement coupled with the fact



that chargesheet has already been submitted, let the petitioner, above named, is directed to be released on bail in connection with Fatuha P.S. Case No. 397 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate, Patna City/concerned Court, subject to the conditions as laid down u/s 437(3) of the Cr.P.C.

Cr. Misc. No. 10403 of 2022

Heard learned senior counsel appearing on behalf of the petitioner, learned APP appearing on behalf of the State and learned counsel for the informant.

Let the defect(s), if any, be removed within a period of four weeks from today.

The petitioner seeks bail in connection with Fatuha P.S. Case No. 397 of 2021 registered for the offence under Sections 302, 307, 341 and 34 of the Indian Penal Code and Section 27 of the Arms Act.

The accused/petitioner is not named in the F.I.R. and is in custody since 09.06.2021.

The allegation against the petitioner is to commit murder of father of the informant, alongwith other co-accused persons by causing fire arm injury, while deceased was on his



way to Patna.

Learned senior counsel, Mr. Ramakant Sharma, appearing on behalf of the petitioner submitted that informant is not the eye witness of the occurrence and entire allegation is based upon suspicion for the reason that petitioner is brother of son-in-law of the deceased, who was involved in money transactions related with certain land deals. It is submitted that the only eye witness of this occurrence, as per F.I.R. is one, Anil Kumar, who failed to identify the petitioner. It is further submitted that recovery cannot be said in furtherance of confessional statement, as no registration number of alleged motorcycle or any marked identification surfaced during the course of investigation, prior to the confession of the petitioner and, as such, having no bearing over accusation. While concluding the argument, it is submitted that petitioner is a man of clean antecedent and, moreover, investigation in this case is complete for which chargesheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP duly assisted by learned counsel for the informant, Ms. Soni Shrivastava, while opposing the prayer of bail, submitted that there is strong motive behind this occurrence as petitioner was found involved in several money



transactions, as surfaced during the course of investigation, with the deceased. While concluding the argument, it is fairly conceded that informant is not the eye witness of the occurrence and prior to confession of this petitioner, the registration number or any specific mark of alleged recovered motorcycle was not surfaced during the course of investigation.

In view of the facts and circumstances, as mentioned above, as informant is not the eye witness of the occurrence, where recovery of motorcycle, on its face, cannot be said in furtherance of the confessional statement coupled with the fact that chargesheet has already been submitted, let the petitioner, above named, is directed to be released on bail in connection with Fatuha P.S. Case No. 397 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate, Patna City/concerned Court, subject to the conditions as laid down u/s 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

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