

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10634 of 2022

Arising Out of PS. Case No.-43 Year-2021 Thana- BAIKUNTHPUR District- Gopalganj

Nitish Kumar @ Nehal S/o Ramashish Sah R/o village- Amtha Bhuwan, P.S.-
Uchkagaon, District- Gopalganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dhramveer, Advocate

For the Opposite Party/s : Mr. Akhileshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 28-11-2022 Heard learned counsel appearing on behalf of the
petitioner and learned counsel appearing on behalf of the State.

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

The petitioner seeks bail in connection with
Baikunthpur P.S. Case No. 43 of 2021 registered for the offence
under Section 302/201 of the Indian Penal Code.

The accused/petitioner is not named in the F.I.R. and
is in custody since 19.07.2021.

The allegation against the petitioner is to commit
murder, along with other co-accused persons, where the dead
body was recovered by the informant, who is none but Dafadar
of the Baikunthpur Police Station, Gopalganj, having Halka No.
1/1.



Learned counsel appearing on behalf of the petitioner submitted that the petitioner is not named in F.I.R. and has falsely been implicated in this case due to his criminal antecedents, as he found involved in 7 more criminal cases where he is on bail having otherwise no bearing over the merit of present case. It is further submitted that the name of petitioner surfaced in this case on the basis of confessional statement of co-accused, namely P.K. Shah, where in furtherance nothing surfaced/recovered to connect this petitioner, *prima facie*, with present set of occurrence. It is also submitted that the mobile number, from which the alleged vehicle/taxi was booked, is belongs to co-accused namely, Chandan Tiwari and not even of this petitioner. While concluding the argument, it has been submitted that admittedly, informant is not the eye witness of the occurrence and moreover, investigation of this case is complete, where charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP, while opposing the prayer of bail fairly conceded the fact that petitioner is not named in F.I.R.

Considering the facts and circumstances as mentioned above, as petitioner is not named in F.I.R., where implication is



merely on the basis of confessional statement, where nothing incriminating surfaced during the course of investigation coupled with the fact that charge-sheet has been submitted, let the petitioner, above named, is directed to be released on bail in connection with Baikunthpur P.S. Case No. 43 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 Judicial Magistrate Ist Class, Gopalganj/concerned Court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

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