

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10846 of 2022

Arising Out of PS. Case No.-135 Year-2020 Thana- MANIGACHI District- Darbhanga

MD. NASIM @ SHER ALI KHAN @ MOHAMMAD NASHIM Son of Md. Azad Resident of Village - Narayanpur, Police Station - Manigachhi, District - Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Birendra Kumar Singh, Advocate
For the Opposite Party/s	:	Ms. Nirmala Kumari, APP
For the Informant	:	Mr. Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

5 12-12-2022 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 Manigachhi P.S. Case No. 135 of 2020 registered for the offence under Sections 302, 120(b) and 34 of the Indian Penal Code.

The accused/petitioner is named in the F.I.R. and is in custody since 22.06.2020.

The allegation against the petitioner is to commit murder of brother of the informant along with other co-accused persons, by making an assault using knife, where dispute arises out of local political differences.



Learned counsel appearing on behalf of the petitioner submitted that petitioner has been falsely implicated in the present case, as arrest was made by private persons, but even during course of investigation those private persons who are the eye-witness of the occurrence was not examined. It is also submitted that alleged knife used in murder which is said to be recovered in furtherance of confessional statement of this petitioner is also appearing false on its face for the reason that, as per seizure list the knife was recovered on 21.06.2020, whereas, confessional statement of this petitioner was recorded on 10.07.2020, which is loudly speaking that recovery is not made in furtherance of confessional statement. It is submitted that entire allegation is based upon hearsay input. It is also pointed out that as per CIS report, the matter is listed for 'Evidence' and as such trial is not likely to conclude in near future.

Learned APP duly assisted by learned counsel for the informant, while opposing the prayer of bail, fairly conceded the fact that informant is not the eye-witness of the present occurrence, as per FIR.

Considering the facts and circumstances as mentioned above, as entire implication is based upon hearsay inputs, where



alleged recovery of knife not appears to made in furtherance of confession of this petitioner, where, petitioner is in custody since 22.06.2020 coupled with the fact that charge-sheet has already been submitted, let the petitioner, above named, is directed to be released on bail in connection with Manigachhi P.S. Case No. 135 of 2020, 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 Sessions Judge – X, Darbhanga/concerned court, subject to the condition as mentioned under Section 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

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