

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14057 of 2022

Arising Out of PS. Case No.-369 Year-2021 Thana- MIRGANJ District- Gopalganj

Saheb Hussain Son of Sagin Miyan Resident of vill. - Gaurup Samail, P.S.-
Mirganj, Dist.- Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vikram Dev Singh, Advocate.

For the Opposite Party/s : Mr. Surendra Kumar, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

3 17-10-2022 Learned counsel for the petitioner is permitted to
remove the defect(s), as pointed out by the office, within a
period of four weeks from today.

Heard Mr. Vikram Dev Singh, learned counsel for the
petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in
connection with Mirganj P.S. Case No. 369 of 2021, registered
for the offences punishable under Sections 302/34 of the Indian
Penal Code and Section 27 of the Arms Act.

The prosecution case is based on a written report filed
by the informant alleging therein that during last Panchayat
election, former Mukhiya Pati (Saheb Hussain) along with some
of his associates, came to the door of the informant and started
giving threatening to her husband that if he would asked for
vote against him during Panchayat election and if he would be



defeated in the election, he will shot him. In the night, on 11.11.2021, her husband went to his shop after taking the meal and slept there, at about 03:00 am, the informant came to know that her husband was shot dead.

Learned counsel appearing on behalf of the petitioner submits that from the FIR, it would be evident that there is no eyewitness to the alleged occurrence and the entire prosecution case is based on suspicion raised by the informant, on the background of election dispute that prior to the alleged occurrence, her husband was threaten with dire consequences by the petitioner. He further submits that during the course of investigation, it has come that the police arrived at the place of occurrence at 04:00 am, in the morning on 12.11.2021 and thereafter, at about 05:25 am, the inquest report was prepared but at that point of time neither the fardbayan of the informant was recorded nor she give any written report, however, at about 03:00 pm, on 12.11.2021, the written report has been filed by the informant and substantive FIR has been instituted, which clearly suggest that the FIR has been instituted after due deliberation and afterthought. He also submits that in fact, on account of election dispute or his past criminal antecedent his name has been implicated, though during the course of



investigation none of the witnesses have ever seen the petitioner at the place of occurrence either before the occurrence or after the occurrence. He last submits that the petitioner is in custody since 14.11.2021.

On the other hand learned APP for the State vehemently opposes the bail application and submits that motive for killing of the deceased is evident from the materials available on record and just before the occurrence, he had threatened the deceased with dire consequences. He also submits that the petitioner is also found involved in four other criminal cases.

Regard being had to the submissions made on behalf of the parties and considering the material available on record which clearly suggest that the entire case is based on suspicion and save and except the threatening which has been given prior to the occurrence, there is no material suggesting the complicity of the petitioner and moreover, the criminal antecedent of a person cannot be sole ground to keep the person behind the bar for an indefinite period, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate



-XV, Gopalganj, in connection with Mirganj P.S. Case No. 369 of 2021, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) The court below shall verify the criminal antecedent of the petitioner and in case, at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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