

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22666 of 2022

Arising Out of PS. Case No.-158 Year-2019 Thana- NAUBATPUR District- Patna

=====

SHUBHAM JYOTI Son of Mahesh Prasad Singh Resident of Mohallah- Jay
Prakash Nagar, P.S.- Shastri nagar, P.O.- Ashiyana Nagar, District - Patna,
PIN Code - 800025 (Bihar).

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Akash Deep

For the Opposite Party/s : Mr.Ajit Kumar

=====

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

4 27-09-2022 The present matter has been listed under the heading :

“To Be Mentioned” on the basis of mentioning slip filed on behalf of

the petitioner.

Heard learned counsel for the petitioner and learned

A.P.P. for the State.

The petitioner seeks bail in connection with

Naubatpur P.S. Case No. 158/2019 registered for the offences

punishable under Sections 302, 201 and read with Section 34 of

the Indian Penal Code.

As per prosecution case, informant Babita Devi, wife

of late Kanhai Kumar, alleging there in that her husband



happened to be a driver of an Ambulance and he left house by saying that he will come after some time, but he did not return in the night. It is further alleged that the informant called him on her mobile but she did not receive any response. It is further alleged that an informant was given by the police that her husband was killed and his dead body was lying near Faridpur. Accordingly, the informant went to the place of occurrence and found the dead body of her husband having gun-shot injury on his head. FIR against unknown.

Learned counsel for the petitioner submits that petitioner is innocent and has falsely been implicated in this case. Petitioner is not named in the FIR. He further submits that after 18 months, the name of petitioner transpired in this case on the basis of confessional statement of co-accused, Gulshan Bhardwaj. Except confessional statement of co-accused, there is nothing on record to demonstrate the complicity of the present petitioner with the alleged occurrence. The petitioner is languishing in custody since 21.10.2020. Learned counsel for the petitioner further submits through supplementary affidavit that petitioner bears criminal antecedent of 14 cases, however, after perusal of paras 141 and 143 of the case diary, it appears that petitioner bears criminal antecedent of 17 cases. He further



submits through supplementary affidavit in para 4 that he filed separate petition in Shastri Nagar P.S. Case No.870/2019 in the court of learned A.C.J.M.-IV, Patna for issuance of production warrant against those cases but the learned court below found that aforesaid cases are not against the petitioner. The learned counsel further submits that he verified the record in Patliputra P.S. Case No. 111/2019 and found that petitioner is not an accused in this case and he has stated that these facts placed before the learned A.D.J.-V, Danapur with documents and hence, learned A.D.J.-V, Danapur found that 14 cases are pending against the petitioner. No incriminating article has been recovered from the conscious possession of the petitioner. Charge has been framed on 23.02.2022. Till date no witness has turned up. Charge sheet has been submitted in this case and there is no likelihood of tampering with the prosecution evidence. Co-accused, Madhuresh Sharma has been granted bail by the co-ordinate Bench of this Court vide Cr. Misc. No.56885/2021 and the case of present petitioner stands on better footing as mentioned in Annexure-3 of the bail petition.

The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner and submits that petitioner has 17 criminal antecedents as mentioned in paras 141 and 143



of the case diary.

Considering the facts and circumstances of the case, period of custody, petitioner is not named in the FIR, argument advanced on behalf of both sides, charge sheet has already been submitted in this case and there is no likelihood of tampering with the prosecution evidence and also taking into consideration the material available on record, let the petitioner above named be released on bail, **after framing of charge** on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-V, Danapur, District-Patna in connection with Naubatpur P.S. Case No. 158/2019, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

(iii) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move



for cancellation of bail.

(iv) Petitioner shall furnish mobile number at the time of furnishing bail bond and the said mobile number shall continue in operating condition till disposal of the case and he shall get his presence marked before the officer-in-charge of the concerned police station on the first Tuesday of every month.

(v) Petitioner shall not live the territorial jurisdiction of the concerned trial court without appropriate permission of the court concerned.

(vi) Petitioner has declared the criminal history of 14 cases, if it is found incorrect, his bail bond shall be cancelled by the learned court below itself.

(Alok Kumar Pandey, J)

amitkumar/-

U		T	
---	--	---	--

