

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36344 of 2022

Arising Out of PS. Case No.-94 Year-2021 Thana- RAMGARHWA District- East Champaran

SHAMSHU JOHA ANSARI @ SHAMSHUL JOHA S/o Md. Idrish Ansari
Resident of Village- Manana, P.S.- Ramgarhwa, District- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Ms. Rashmi Jha, Advocate Mr. Abhishek Kumar, Advocate
For the Opposite Party/s	:	Mr. Indu Kumari Srivastava, APP
For the Informant	:	Mr. Rajesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 29-11-2022 Heard learned counsel for the petitioner, learned
counsel for the informant and learned A.P.P. for the State.

The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 302, 120(B) and 34 of the Indian Penal Code read with Section 25(1-b)a, 26, 35 and 27 of the Arms Act.

Learned counsel for the petitioners submits that the informant alleges that Jitendra Prasad used to allege that her husband was having illicit relationship with his wife and thus had threatened of dire consequences, further on 31.03.2021, Jitendra Prasad along with two unknown accused came and inquired about her husband on which she disclosed that he was near the pond, it is next alleged that on 01.04.2021, the three accused



persons shot him dead.

Learned counsel for the petitioner submits that petitioner is a person clean antecedent and has been falsely implicated in the present case, it is next submitted that from bare perusal of the allegations as alleged in the FIR it would manifest that the informant has alleged that Jitendra Prasad had issues with her husband as he was of the opinion that her husband was having illicit relationship with his wife on account of which the alleged occurrence took place. Learned counsel next submits that petitioner is not named in the FIR and his named transpired during the course of investigation.

Learned A.P.P. for the State and learned counsel for the informant oppose the prayer for anticipatory bail of the petitioner and learned counsel for the informant submits that during the course of investigation it transpired that informant was made to give her thumb impression on an application brought by the petitioner and the same was given to the police by incorporating that Jitendra Prasad had threatened to kill her husband, it is further submitted that informant has also written to the police headquarters that her husband was murdered on 31.03.2021, when he went to attend the party organized by petitioners and other accused persons thus has alleged that petitioner in conspiracy with the other accused persons killed him.



Learned counsel for the petitioner rebuts the submission of the learned counsel for the informant and submits that if what has transpired during the course of investigation is true then it amply demonstrates that informant is a lady who is able to read and write or else how could she have petitioned the Senior Police officer alleging about the occurrence that it were the accused persons who killed him in conspiracy with the petitioner, it is next submitted that it absolutely does not stand to reason that how the informant could have signed the application brought before her by the petitioner in which it was recorded that Jitendra along with two unknown accused persons had killed her husband, learned counsel thus submits that the manner in which the case has been instituted creates doubt that as to whether it was Jitendra along with two unknown accused persons who committed the occurrence or it was the petitioner along with other accused who committed the occurrence, it is next submitted that petitioner is not evading investigation rather will cooperate in the investigation and will present himself as and when required by the Investigating Officer of the case for eliciting the truth.

Considering the submissions made by the learned counsel for the petitioner and the fact that petitioner is a person with clean antecedent, the petitioner above-named, in the event



of his arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Ramgarhwa P.S. Case No. 94 of 2021 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

Further, if the Investigating Officer of the case files an application before the learned trial court bringing to its notice that the petitioner despite giving an undertaking before this Court is not cooperating in the investigation or is not presenting himself as and when required, the learned trial Court after hearing the petitioner shall pass order in accordance with law and will also have the liberty to cancel his bail bonds.

The learned trial court is directed to send a copy of this order to the concerned Police Station.

(Satyavrat Verma, J)

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