

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31694 of 2022

Arising Out of PS. Case No.-197 Year-2019 Thana- RAGHUNATHPUR District- Siwan

Sardar Khan @ Tausif Khan Son of Salauddin Khan Resident of Village -
Salempur, P.S. - Raghunathpur, Dist.- Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Yogesh Chandra Verma, Sr. Advocate Ms.Kumari Anupam, Advocate
For the Opposite Party/s :		Mr. Sanjay Kumar Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 16-09-2022 Heard learned counsel for the petitioner and learned
APP for the State through virtual court proceeding.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioner seeks bail in connection with Raghunathpur P.S. Case No. 197 of 2019 registered for the alleged offences under Sections 363, 366 and 34 of the Indian Penal Code and Section 27 of Arms Act.

As per prosecution case, the petitioner and other co-accused persons forcibly picked up the daughter of the informant and put her in a vehicle and fled away with her.

Learned senior counsel for the petitioner submits that



petitioner is innocent and has been falsely implicated in this case. The F.I.R. has been registered on 16.10.2019 whereas the occurrence is stated to have taken place on 14.10.2019 and no reasonable explanation for the delay has been mentioned in the written statement. Though the occurrence took place in evening but except for the another daughter of the informant, there is no eye witnesses. The victim girl in her statement under Section 164 Cr.P.C. has not made any specific allegation against this petitioner. The allegations are vague, general and omnibus against this petitioner and other co-accused persons. Learned Senior counsel further submits that in her statement under Section 164 Cr.P.C, the victim has also stated about land dispute with the accused persons. There is much variation in the statement of witnesses recorded during investigation and during the deposition made before the court. Learned Senior counsel further submits that even the informant, his wife and two other prosecution witnesses who have been examined before the learned trial court have not supported the prosecution story. Learned Senior counsel further submits that in fact the daughter of the informant was having an affair with co-accused Rajkishore Yadav and she fled away with him and for this reason, no F.I.R. at that time was lodged and the F.I.R. was



lodged only after deliberation and after thought. The whole prosecution story is most improbable. Learned Senior counsel further submits that similarly situated co-accused Vishnu Singh and Asha Devi have been granted privilege of anticipatory bail by this Court vide order dated 27.01.2022 passed in Cr. Misc. No. 16438 of 2020. The charge sheet has been submitted in this case and the petitioner is in custody since 11.03.2022. The petitioner has got no criminal history.

Learned APP for the State opposes the prayer for bail of the petitioner.

Having regard to the submission made on behalf of the parties and considering the fact that the victim has not attributed any specific overt act to this petitioner and also considering the deposition of informant and his wife before the learned trial court, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Siwan in connection with Raghunathpur P.S. Case No. 197 of 2019, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions:

(i) The bail bond of the petitioner will



be accepted only after framing of charge, if not already framed.

(ii) One of the bailors will be a close relative of the petitioner.

(iii) The petitioner will remain present on each and every date fixed by the court below.

(iv) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be canceled by the court concerned.

Learned court below is directed to verify the criminal antecedent of the petitioner and if it is found that petitioner has got criminal antecedent then it will take steps for cancellation of the bail bond of the petitioner.

(Arun Kumar Jha, J)

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