

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41934 of 2021

Arising Out of PS. Case No.-704 Year-2019 Thana- BUXAR District- Buxar

NARAYAN SINGH @ NARAYAN KUSHWAHA Son of Late Yamuna
Kushwana Resident of Village - Bhikhampur, P.S.- Itarhi, District - Buxar

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Digvijay Kumar Ojha, Advocate

For the Opposite Party/s : Mr.Manoj Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 03-03-2022 Heard learned counsel appearing on behalf of
petitioner and learned A.P.P. for the State.

Learned counsel appearing on behalf of petitioner is
directed to make necessary correction in the petition in course of
the day in this regard petitioner has also filed supplementary
affidavit.

Let the defect(s) be removed within two weeks of the
complete start of the physical Court in normal course.

The petitioner seeks regular bail in connection with
Buxar (Town) P.S. Case No. 704 of 2019, for the offence
punishable under Section 302/34 of the Indian Penal Code and
Section 27 of the Arms Act.

The allegation against the petitioner along with other
accused persons named in the F.I.R. is of killing the son of the



informant by indiscriminate firing.

Learned counsel appearing on behalf of the petitioner submits that the petitioner is innocent and he has falsely been implicated in this case mere on suspicion. He further submits that the name of petitioner has surfaced in the present case on the basis of confessional statement of co-accused Mehndi Hassan @ Mahandi Hasan, who has already been enlarged on bail by this Court vide order dated 21.05.2021 passed in Criminal Miscellaneous No. 2484 of 2021. He further submits that the petitioner has clean antecedent and as such he be released on bail.

Learned A.P.P. for the State has opposed the prayer for grant of bail to the petitioner. He further submits that there is specific allegation against the petitioner that he along with other co-accused have killed the son of informant by means of fire arm and the said fact is also corroborated from the Postmortem report in which the Doctor has given his opinion that three fire arm injury found on the person of deceased and as such the complicity of the petitioner in the murder of son of informant cannot be ruled out and petitioner does not deserve to be released on bail.

Having heard the rival submissions of the parties,



from perusal of the F.I.R. it appears that petitioner is not named in the F.I.R. and there is direct allegation against three co-accused named in the F.I.R. The petitioner has clean antecedent and his name has surfaced on the basis of confessional statement of co-accused Kunjan Giri and Mehndi Hassan has been released on bail vide order dated 21.05.2021 passed in Criminal Miscellaneous No. 2484 of 2021. It appears that co-accused Mehndi Hassan is involved in several other cases, whereas, the petitioner has pleaded his innocence.

The law is well settled in this regard that a strong suspicion, howsoever, cannot take the place of proof and for suspicion an under-trial cannot be kept behind the bar, even after completion of investigation.

Considering the aforementioned facts and circumstances of the case, prima facie the petitioner has made out a case to be released on bail, the petitioner, above named, is directed to be enlarged on bail on furnishing bail bond of Rs. 25000/- (Rs. Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned A.D.J-III, Buxar in connection with Buxar (Town) P.S. Case No. 704 of 2019, subject to the following conditions:-

- (1) Bailors should be local having sufficient



immovable property within the jurisdiction of the Court concerned.

(2) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.

(3) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(4) If the petitioner is found involved in similar nature of offence, after his release on bail, the trial Court shall take steps to cancel his bail bonds.

(Purnendu Singh, J)

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