

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43963 of 2021

Arising Out of PS. Case No.-312 Year-2011 Thana- KAJI MUHAMMADPUR District-
Muzaffarpur

=====

OM PRAKASH YADAV S/o- Ram Japu Yadav @ Ramajapo Yadav R/o
village - Bahba, P.S. - Kusheshwar, District - Darbhanga.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s	:	Mr. N.K. Agarwal, Sr. Advocate
		Mr. Rajesh Kumar, Advocate
For the Opposite Party/s :		Mr. Ashok Kumar, A.P.P.

=====

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 04-04-2022 Heard learned counsel appearing on behalf of the
petitioner and learned APP for the State.

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

Petitioner, who is in custody since 19.03.2021, seeks
regular bail in connection with Kazi Mohammadpur P.S. Case
No. 312 of 2011 registered for offences punishable under
Sections 363 and 364 of the Indian Penal Code.

Prosecution story in brief is that the son of the
informant was kidnapped on 10.12.2021. Involvement of the
petitioner has come on the basis of confessional statement of co-
accused namely, Ram Jatan Yadav and Awadesh Kumar @
Awadesh Kumar Yadav.



Learned counsel appearing on behalf of the petitioner submits that one Awadesh Kumar @ Awadesh Kumar Yadav, from whose possession, clothes of the deceased son of the informant were recovered has already been released on bail vide order dated 10.05.2013 by a co-ordinate Bench of this Court. Other similarly situated co-accused persons have also been released on bail. Petitioner has clean antecedent and he is in custody since 19.03.2021. Petitioner is innocent and he may be released on bail on any terms and conditions as imposed by this Court.

Learned A.P.P., for the State has opposed the prayer for grant of bail to the petitioner. He submits that the name of the petitioner has surfaced on the basis of confessional statement of co-accused Awadesh Kumar, from whose possession the clothes of the deceased son of the informant was recovered, therefore, the direct complicity of the petitioner in commission of kidnapping cannot be ruled out. The co-accused persons were traced on the basis of call made to the petitioner and his friend whose mobile no. is referred in the FIR. Petitioner is directly involved in the alleged murder of the son of the informant as such he does not deserve to be released on bail.

Considering the rival submission made by the parties,



similarly situated co-accused persons have already been released on bail, there was no apprehension of being arrested as the petitioner was neither named in the FIR nor he had knowledge that he has been made accused in the present case, the mobile no. 09537254503 referred in the FIR has no connection with the present petitioner, the petitioner has been made accused merely on the basis of suspicion. Prima facie petitioner has made out a case to be released on bail.

The Court below is directed to release the petitioner, above named, on bail upon furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Muzaffarpur in connection with Kazi Mohammadpur P.S. Case No. 312 of 2011 subject to the following conditions:

(i) Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

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

(iii) 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.

(iv) 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 bond.

(Purnendu Singh, J)

Niraj/-

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

