

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34220 of 2022

Arising Out of PS. Case No.-362 Year-2020 Thana- FALKA District- Katihar

Shyam Kumar @ Shyam Kumar Muni, S/o Naresh Muni, Resident of Village-
Gopal Patti, P.S.- Falka, District- Katihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Pawan Kumar Singh, Advocate

For the Opposite Party/s : Mr.Rajendra Singh, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 23-09-2022 Heard learned counsel for the petitioner and learned
APP for the State through video conferencing.

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 Falka P.S. Case No. 362 of 2020 registered for the alleged offences under Sections 302, 201 and 34 of the Indian Penal Code.

As per prosecution case, the son of the informant was hanged and the informant showed his suspicion that the petitioner and other co-accused persons might have committed the murder of his son due to earlier dispute over burning of crackers by the deceased after election results.



The learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case merely on suspicion. It is apparent from the FIR that the informant is not an eye-witness and was not present in his village as he was in his matrimonial home. Learned counsel further submits that during course of investigation police came to know about illicit relationship of a lady Anju Devi with one Rakesh Yadav and the husband of Anju Devi was a close friend of deceased who asked him to keep watch over his wife as he had been going to Punjab to earn his livelihood. But it appears the deceased fell for that women and established relationship with her and quarrel took place between Rakesh Yadav and the deceased. It also came to the light that on the alleged date and time of occurrence, the said lady talked with the deceased since 22:42 hours up to 04:19 hours and it seems the said lady called out the deceased at the instance of Rakesh Yadav and thereafter he was killed and hanged on the tree. The police has also come to collect the call detail reports of the four mobile numbers which belong to the deceased, Anju Devi and Rakesh Yadav. Total eight calls were made between these numbers. In the aforesaid circumstances, the petitioner nowhere comes into the picture. He has no concern either with the deceased or Rakesh Yadav or Lalan Yadav or Anju Devi. Moreover, the co-accused brother of the petitioner himself informed the informant



about burning of crackers by the deceased as it might have caused danger to the hut of the petitioner. Even during course of investigation, none of the witnesses have stated about the complicity of this petitioner in the alleged occurrence. Moreover, the petitioner was not a candidate of any post in the last election in which the deceased won so the petitioner had no motive or enmity with the deceased. There is no eye-witness to the alleged occurrence and no iota of evidence came during course of investigation even for participation in conspiracy against the petitioner. Petitioner is in custody since 15.12.2021 and charge-sheet has been submitted in this case. Petitioner is having clean antecedent.

Learned APP opposes the prayer for bail submitting that the petitioner has been named by the informant in this case and there is allegation against him that he along with other co-accused persons killed the son of the informant.

Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the lack of substantive material against this petitioner to connect him with the alleged offence and also considering his period of custody and submission of charge-sheet, 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 Additional Chief Judicial Magistrate-1st, Katihar, in connection with Falka P.S. Case No. 362 of 2020, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions :

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

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

(iii) 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 cancelled by the court concerned.

(Arun Kumar Jha, J)

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