

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34118 of 2022

Arising Out of PS. Case No.-69 Year-2022 Thana- GAYA KOTWALI District- Gaya

MAHESH KUMAR Son of Indradeo Mistry Resident of Village - Ramshila
Paroji Gali, P.s.- Kotwali, Distt.- Gaya. Petitioner/s

Versus

The State of Bihar Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rabindra Kumar Priyadarshi, Advocate

For the Opposite Party/s : Mr. Anil Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 12-09-2022 Heard learned counsel for the petitioner and learned
counsel for the State.

Let the defect(s), if any, as pointed out by the office
be removed within four weeks.

The petitioner is in judicial custody in connection
with Kotwali P.S. Case No. 69 of 2022 for the offences under
Sections 302/34 of the Indian Penal Code and section 25(1-b)a,
26 and 37 of the Arms Act.

The prosecution story unfolds as follows:-

On 11.02.2022, the informant, Rekha Devi alleged
that accused persons, namely, Rahul Kumar and Vicky Kumar
called her son Vikash Kumar whereafter her son left the home
and later she heard sound of firing and found him lying in a pool
of blood. Accordingly, he was taken to Magadh Medical College
& Hospital where he was declared brought dead. The further
allegation in the FIR is that the marriage of her niece was



solemnized after kidnapping which was objected by both the informant and her son which was resented by the accused Rahul Kumar and Vicky Kumar and had threatened them of dire consequences.

Learned counsel for the petitioner submits that so far as the present petitioner is concerned, he is neither Rahul Kumar nor Vicky Kumar and the only allegation in the FIR against him is of instigating along with one Suraj Kumar to the said accused persons, namely, Rahul Kumar and Vicky Kumar and on the said basis, he too has been dragged in this case. His further submission is that the petitioner had filed criminal case in December, 2020 vide Complaint Case No. 1072 of 2020, as contained in Annexure-2 and the present case in which he has been dragged is a counter blast to this.

Learned APP, on the other hand, opposes the bail and submits that the petitioner has been named in the FIR.

Taking into account the fact that the main allegation has been made against co-accused persons, namely, Rahul Kumar and Vicky, against this petitioner, the allegation is of instigating them, is in custody since 13.02.2022 and charge sheet stands submitted, this Court is inclined to grant him privilege of bail.



Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of like amount each to the satisfaction of Chief Judicial Magistrate, Gaya in connection with Kotwali P.S. Case No. 69 of 2022, subject to the following conditions:-

(i) one of the bailor should be the family member of the petitioner, who shall provide official document to show his/her *bona fide*;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reasons will entail his cancellation of bail by the Trial Court itself;

(iii) he shall in no way try to induce or promise or threat the witnesses or tamper with the evidence, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

Jagdish/Neha-

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