

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34744 of 2022

Arising Out of PS. Case No.-145 Year-2022 Thana- SIKARPUR District- West Champaran

Devendra Mani Tiwary @ Bhaiyaji Son of Bairister Tiwary Resident of Village - Sugauli, P.S.- Shikapur, Distt.- West Champaran . At present residing at Ward no.01, Purani Bazar, P.s.- Shikarpur, Distt.- West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nilendu Kumar Choudhary, Advocate

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

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 28-11-2022 Heard learned counsel for the petitioner and learned A.P.P. for the State.

The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 364, 353, 365, 302, 201 and 120(B) of the Indian Penal Code.

Learned counsel for the petitioner submits that petitioner has antecedent of three cases and the present FIR arises out of a complaint wherein it has been alleged that the informant's younger brother was in jail in a false case and was granted bail around Durga Puja, thereafter he was under stress and fear and had disclosed to the complainant and other family members that three accused persons were after him and were asking him to move to Kathmandu where he would get work, it



is next alleged that all the three named accused resided in Kathmandu and the victim was not ready to work with them. It is further alleged that on 20.11.2021, the named accused persons took the victim to Kathmandu, thereafter the informant lastly on 03.12.2021 talked to the victim and on 14.12.2021 it was informed that victim has been killed, it is also alleged that the victim was first shot and thereafter he was cut with sharp weapon, further it is alleged that a personal search was conducted but the victim was not found and accordingly on 20.12.2021, the informant went to the house of the accused persons but they were not present in the house and their family members did not disclose anything and thus the informant suspected that victim was enticed for a job and thereafter was killed.

Learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case and from perusal of the allegations as alleged in the FIR it would manifest that on 04.12.2021, the informant came to know about killing of his brother but then no action was taken by him and it was only on 24.12.2021 a complaint case came to be filed based on which the present FIR was instituted, it is next submitted that even the petitioner is not named in the FIR and his name



transpired in the confessional statement of co-accused Md. Sheikh Ijhar, learned counsel thus submits that the informant in the FIR did not even remotely cast any aspersion on the petitioner and thus he was not even named in the FIR and based on the confessional statement in police custody, which does not have any evidentiary value, the petitioner came to be implicated. Learned counsel submits that no doubt the petitioner has antecedent of three cases but then mere antecedents should not persuade the Court for rejecting his application for anticipatory bail in the nature of allegations as alleged, learned counsel further submits that petitioner is not evading law and will cooperate in the investigation and thus would present himself as and when required by the Investigating Officer of the case.

Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioner.

Considering the submissions made by the learned counsel for the petitioner, the petitioner above-named, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the



case is pending/successor court in connection with Shikarpur P.S. Case No. 145 of 2022 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

However, in the event, if the Investigating Officer of the case files an application before the learned trial court bringing to its notice that the petitioner despite giving an undertaking before this Court that he will cooperate in the investigation and will present himself as and when required, is not cooperating in the investigation or is not appearing when called, the learned trial court after giving an opportunity of hearing to the petitioner shall pass orders in accordance with law and will have the liberty to cancel the bail bonds of the petitioner.

The learned trial court is directed to send a copy of this order to the concerned Police Station.

(Satyavrat Verma, J)

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