

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44642 of 2021

Arising Out of PS. Case No.-55 Year-2021 Thana- KHAGARIA District- Khagaria

MD. GULCHAMAN @ SHAHNBAJ SON OF MD. SARFARAJ R/O
VILLAGE- JALKAURA, P.S- KHAGARIA (GANGOUR), DIST-
KHAGARIA

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms.Deepika Sharma, Advocate

Mr. Rajat Tiwary, Advocate

For the Opposite Party/s : Mr.Suresh Prasad Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 29-03-2022 Heard learned counsel appearing on behalf of the
petitioner and learned A.P.P. for the State.

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
Khagaria (Gangour) P.S. Case No. 55 of 2021, for the offence
punishable under Sections 302, 394 and 120(B) of the Indian
Penal Code and Section 27 of the Arms Act.

The prosecution case, in brief, is that the husband of
the informant was murdered by Kishore Chaudhary along with
3-4 unknown persons.

Learned counsel appearing on behalf of the petitioner
submits that, in fact, the name of petitioner has surfaced in this
case on the basis of confessional statement of one Shuja Anbar
in the Police custody, who has implicated the petitioner due to



personal rivalry. Learned counsel has able to bring on record that Section 107 Cr.P.C. proceedings was initiated between the said Shuja Anbar and the present petitioner. Learned counsel further submits that informant has not implicated the petitioner nor any independent witnesses, in course of investigation, have alleged that petitioner was also one of the co-accused involved in commission of murder of the husband of the informant. The petitioner is in custody since 12.03.2021 as an under trial without any fault deserves to be released on bail.

Learned A.P.P. for the State has opposed the prayer for grant of bail to the petitioner. He submits that the said Shuja Anbar has named the petitioner as one of the co-accused, who has committed murder of husband of informant and as such the petitioner is not entitled to be released on bail.

Having heard the rival submissions of the parties, on perusal of the F.I.R., it appears that petitioner has not been named in the F.I.R. The name of petitioner has surfaced in the present case on the basis of confessional statement of co-accused Shuja Anbar and petitioner has been able to demonstrate from the pleadings of the bail application that due to personal rivalry between the petitioner and the co-accused Shuja Anbar, the said co-accused has taken the name of the petitioner to be one of his accomplice, who have committed murder of the husband of the informant. In this regard she has



made specific statement in paragraph Nos. 8, 11 and 12 of the bail application. In my opinion, the petitioner, above named, has prima facie 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 Chief Judicial Magistrate, Khagaria in connection with Khagaria (Gangour) P.S. Case No. 55 of 2021, 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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