

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37383 of 2022

Arising Out of PS. Case No.-240 Year-2020 Thana- CHHATAPUR District- Supaul

MD. SAMSHAD KHAN @ SAMSHAD KHAN Son of Azim Khan Resident
of village - Madhopur, P.S. - Chhatapur, District - Supaul.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Arun

For the Opposite Party/s : Mr.Dr. Indiwari Kumari

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 17-08-2022 Let the defect(s), as pointed out by the office, be
removed within a period of four weeks from today.

Heard learned counsel for the petitioner and
learned A.P.P. for the State.

The petitioner seeks bail in connection with
Chhatapur P.S. Case No. 240 of 2020 registered for the offences
punishable under Sections 302 of the Bihar Prohibition and
Excise Amendment Act.

As per prosecution case, F.I.R. named accused
killed the husband of informant by pressing neck. Accusation
against the petitioner is that he caught hold the leg of the
deceased.

Learned counsel for the petitioner submits that
petitioner is in custody since 08.02.2022. Petitioner bears no



criminal antecedent. Charge sheet has already been submitted in the case and there is no likelihood of tampering with the prosecution evidence. Learned counsel further submits that after completion of the investigation, the I.O. submitted charge-sheet under Section 304 of the Indian Penal Code against the co-accused namely Moti Khan and not against the petitioner but the Learned Court Below differing from the charge-sheet took cognizance against the petitioner and others under Section 302 of the I.P.C. as mentioned in the impugned order. Learned counsel for the petitioner further submits that co-accused Moti Khan was sitting on the chest of deceased has already granted bail vide Cr. Misc. No. 36094 of 2021 by the co-ordinate bench of this Court and the case of present petitioner stands on better footing.

The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner.

Considering the facts and circumstances of the case as well as period of custody, nature of allegation, co-accused has already been granted bail and the case of present petitioner stands on better footing, argument advanced on behalf of the parties, charge-sheet has already been submitted and there is no likelihood of tampering with the prosecution evidence, keeping



in view clean antecedent of the petitioner, and also taking into consideration the material available on record, let the petitioner above named be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Supaul in connection with Chhatapur P.S. Case No. 240 of 2020, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission would be a ground for cancellation of bail by the learned Trial court itself.

(iii) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Alok Kumar Pandey, J)

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