

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48189 of 2021**

Arising Out of PS. Case No.-47 Year-2021 Thana- KOCHADHAMAN District- Kishanganj

AFSAR ALAM @ MD. AFSAR ALAM S/o MAJHARUL HAQUE R/o
VILLAGE-KADAM GACHHI, WARD No. 02, P.S-KOCHADHAMAN,
DISTRICT-KISHANGANJ.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Radha Mohan Singh, Advocate.

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

**CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER**

3 24-03-2022 Heard learned counsel appearing on behalf of the
petitioner and learned A.P.P. for the State.

Let the defect(s), if any, be removed within two
weeks of the complete start of the physical Court in normal
course.

The petitioner seeks regular bail in connection with
Kochadhaman P.S. Case No. 47 of 2021 for the offence
punishable under Sections 302, 120B/34 of the Indian Penal
Code.

The prosecution story, in brief, is that the dead body
of the father of the informant was found in the Barandah of the
house of the co-accused Tanwir who is the son-in-law of the
deceased. The F.I.R. was lodged against 12 persons including



the petitioner. Allegation against the petitioner is that he along with his brother and sister-in-law has committed murder of the father of the informant Md. Halim with an intention to cheat and dishonestly grab the ornaments and cash of the deceased. In course of investigation, the allegation is supported by independent witnesses that the petitioner along with other co-accused has dishonestly cheated many persons in the past also. Charge sheet has already been submitted.

Learned counsel appearing on behalf of the petitioner submits that the petitioner is innocent and he has falsely been implicated in this case. He further submits that there is general and omnibus allegation against the petitioner. Informant is not the eye witness of the occurrence rather the body of the deceased was found in the Barandah of the co-accused Tanwir who is the brother of the petitioner. Similarly situated co-accused Md. Kaisar who is the brother of the petitioner has been released on anticipatory bail by a co-ordinate Bench of this Court vide order dated 01.11.2021 passed in Cr. Misc. No. 37071 of 2021. In course of investigation, no cogent material has been gathered by the investigating officer to implicate the petitioner in the present case of murder of the father-in-law of the co-accused Tanwir Alam and father of co-accused Shabnam.



Said Shabnam has already been granted bail by the court below itself.

Learned A.P.P. for the State has opposed the prayer for grant of bail to the petitioner referring paragraph nos. 25 to 29 of the case diary.

Having perused the allegation made in the F.I.R. as well as material which has surfaced in course of investigation, there is no eye witness to the alleged incidence of murder of the father-in-law of the co-accused Tanwir, however, the body of the deceased was found lying in the Barandah of the house of Tanwir, petitioner has made out specific statement in Para-13 of the bail application that he is living in his separate house and he does not have any interest in the family affairs of the father-in-law of his brother Tanwir, the allegation is false and as such taking into consideration the period of custody and no allegation of tampering with the evidence or influencing the witnesses, the petitioner, above named, is directed to be enlarged on bail on furnishing bail bond of Rs.25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Kishanganj in connection with Kochadhaman P.S. Case No. 47 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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