

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55661 of 2021

Arising Out of PS. Case No.-203 Year-2020 Thana- MOHANIYA District- Kaimur (Bhabua)

VIKASH PASWAN @ VIKASH KUMAR Son of Shyam Lal Paswan
Resident of Village - Mohania Ward no.12, P.s.- Mohania, Distt.- Kaimur at
Bhabua.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajani Kant Pandey

For the Opposite Party/s : Mr.A.G.

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

3 22-06-2022 Let the defect(s), as pointed out by the office, be
removed within a period of four weeks from today.

Heard Rajani Kant Pandey, learned counsel for the
petitioner and learned A.P.P. for the State.

The petitioner seeks bail in connection with Mohania
P.S. Case No. 203 of 2020 registered for the offences punishable
under Sections 302 and 34 of the Indian Penal Code and 27 of
the Arms Act.

As per prosecution case, informant namely Bharat
Chaudhary has given a fardbeyan before the police and has
alleged that he was cultivating in the field at about 6.30 O'clock
that his nephew has been killed by the unknown person by firing
. He further alleged that he reached near the occurrence at the

tea stall of the Raj Bandhu then he found that the dead body was being sent at police station Mohania and informant reached the police station and found dead body of deceased was available in the police station and he saw the wound in the head of the deceased was caused by fired arm and the FIR has been lodged against unknown person. During the course of investigation, the name of the present petitioner has been surfaced in para 27 in the statement of Teja Ali and in para 28 of Mangaraila Gaddi.

Learned counsel for the petitioner submits that FIR has been lodged against unknown and the name of the petitioner transpired during the statement of Teja Ali on 24.07.2020 and the date of occurrence has occurred on 05.07.2020. It has been submitted that the petitioner bears criminal history of one case Mohania P.S. Case No. 249 of 2020 and from that case he was remanded in this case on the basis of suspicion. There is no eye witness of alleged occurrence and statement of Mangaraila Gaddi was recorded in para 28 of the case diary in which he stated that he heard by unknown person that in the killing of the deceased, petitioner, Saheb Paswan and Arbind Paswan are involved. Both the aforesaid witnesses are hearsay and they have not claimed as eye witness during the course of investigation. From the perusal of whole prosecution case, it is

clear that the petitioner has implicated on the basis of suspicion and nothing else. Prosecution has not brought any material to connect the present petitioner in alleged occurrence. Charge-sheet has already been submitted and there is no chance of tempering the evidence. The petitioner is in custody since 09.02.2021 and name of the petitioner has been surfaced on the basis of hearsay witness.

The learned APP for the State opposes the prayer for bail of the petitioner.

Considering the facts and circumstances of the case, FIR has been lodged against unknown so far as the nature of allegation as well as period of custody and the material available on record, let the petitioner above named be released 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, Kaimur at Bhabua in connection with Mohania P.S. Case No. 203 of 2020 subject to following conditions:-

(i) One of the bailor shall be either father or mother or sister or brother or wife or the person who 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 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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