

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46852 of 2022

Arising Out of PS. Case No.-382 Year-2021 Thana- PATNA CITY CHOWK District- Patna

Abhishek Kumar @ Nunu S/o- Fudina Rai R/o- Kacchi Ghat, Chamdoriya,
P.S.- Chowk, District – Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner	:	Mr. Ramakant Sharma, Sr. Advocate
	:	Mr. Arvind Kumar Pradhan, Advocate
For the State	:	Mr. Murli Dhar, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 22-12-2022 Heard learned counsel appearing on behalf of the
petitioner and learned APP appearing on behalf of the State.

The petitioner seeks bail in connection with Chowk
P.S. Case No.382 of 2021 registered for the offence under
Sections 302, 201 and 34 of the Indian Penal Code.

The accused/petitioner is not named in the F.I.R. and
is in custody since 13.01.2022.

The allegation against the petitioner is to commit



murder of the husband of informant alongwith other co-accused persons due to differences arising out of money transactions.

Learned counsel appearing on behalf of the petitioner submitted that petitioner is not named in the F.I.R. and his name surfaced three months later, after the occurrence on the basis of CCTV footage, for the simple reason as he was found roaming around the place of occurrence. It is also submitted that the said CCTV footage was taken into consideration without obtaining the mandatory certificate u/s 65B of the Indian Evidence Act. It is also submitted that alleged blood stained t-shirt and half pant was recovered from the garbage of the house of this petitioner, which is an open area and accessible by general public and, as such it cannot be said the recovery was made from the possession of this petitioner. It is also submitted that FSL examination of the blood stained t-shirt and half pant failed to connect petitioner scientifically with the present occurrence. While concluding the argument, it is submitted that petitioner is a man of clean antecedent and moreover, investigation of this case has been completed, for which, charge-sheet has already been submitted, as such, there is no chance of tampering with the evidence.

Learned APP appearing on behalf of the State, while



opposing the prayer for bail submitted that blood stained t-shirt and half pant was recovered from the house of this petitioner.

In view of the facts and circumstances as mentioned above as FSL report of seized blood stained t-shirt and half pant failed to connect this petitioner with present occurrence coupled with the fact charge-sheet has already been submitted without obtaining mandatory certificate u/s 65B of the Indian Evidence Act, where petitioner is in custody since 13.01.2022, let above named petitioner is directed to be released on bail in connection with Chowk P.S. Case No.382 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Additional Chief Judicial Magistrate-IV, Patna/concerned court, subject to the following conditions:

(i) That accused/petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner, duly



supported by the documents.

(ii) That one of the bailors
shall be deponent of the present bail
petition.

(Chandra Shekhar Jha, J)

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