

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59732 of 2021

Arising Out of PS. Case No.-57 Year-2020 Thana- KHAGAUL District- Patna

Rocky Kumar @ Rocky Yadav S/O Prem Rai R/o village- Choti Badalpura,
P.S.- Khagaul, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. N.K. Agarwal, Sr. Advocate
	:	Mr. Arvind Kumar, Advocate
For the State	:	Mr. Bharat Bhushan, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 03-08-2022 Heard learned senior counsel appearing on behalf of
the petitioner and learned APP appearing on behalf of the State.

Let the defect(s), if any, be removed within a period
of four weeks from today.

The petitioner seeks bail in connection with Khagaul
P.S. Case No. 57 of 2020 registered for the offence under
Sections 302 and 34 of the Indian Penal Code and Section 27 of
the Arms Act.

The accused/petitioner is named in the F.I.R. and is in
custody since 26.02.2020.

The allegation against the petitioner is to commit the
murder of husband of the informant, while stepping down the
stairs of the house, for previous enmity over local issues.



Learned senior counsel appearing on behalf of the petitioner submitted that the version of F.I.R. itself suggestive of the fact that informant is not the eye witness of the occurrence. It is submitted that name of the petitioner surfaced in the present case merely on the ground of suspicion, as he was found running away from the place of occurrence. It is also submitted that one of the similarly situated co-accused, namely, Prem Kumar has already been granted bail by one of the learned Co-ordinate Bench of this Court through Cr. Misc. No. 51152 of 2021 dated 15.09.2021. It is further submitted that nothing recovered from the conscious physical possession of the petitioner, during the course of investigation, which may connect the petitioner with the present set of occurrence. It is pointed out that petitioner is involved in two more criminal cases, in which he is on bail. While concluding the argument, it is submitted that investigation in this case is complete for which chargesheet has been submitted, as such, there is no chance of tampering with the evidence.

Considering the fact that despite of sufficient time, charge has not been framed against the petitioner, a report was called for, as regard to stage of trial from the Trial Court, which suggests thereof that the matter is still in the stage of



appearance, where petitioner is in custody since 26.02.2020.

Learned APP appearing on behalf of the State, while opposing the prayer of bail, fairly conceded that it can be hardly gathered that informant is the eye witness of the occurrence, as per F.I.R.

In view of the facts and circumstances as mentioned above, as informant is not the eye witness of the occurrence and further nothing surfaced during the course of investigation, which may incriminate the petitioner, *prima facie*, with the present set of occurrence coupled with the fact that trial is still at the stage of appearance, where petitioner is in custody since 26.02.2020, let the petitioner, above named, is directed to be released on bail in connection with Khagaul P.S. Case No. 57 of 2020 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-V, Danapur, District- Patna/concerned Court, subject to the following conditions:

“(i) That accused/petitioner shall not involve in the similar nature of offence till the conclusion of trial, failing which the State shall be at liberty to move before the



Trial Court itself for the cancellation of bail bond of the petitioner.

(ii) 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.

(iii) That one of the bailors shall be Ram Pravesh Yadav, who is the grandfather of the petitioner and deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

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