

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62802 of 2021

Arising Out of PS. Case No.-16 Year-2021 Thana- BHAIKAVSHTHAN District- Madhubani

Md Akbar Son of Abdul Rahman Resident of Village- Sharfuddinpur,
Gopalpur, P.S.- Bochaha, District- Muzaffarpur (Bihar)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Majid Mahboob Khan, Adv.

For the Opposite Party/s : Mr. Upendra Kumar, APP.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

3 10-10-2022 Let the defect(s), if any, be removed within two weeks
from today.

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

The petitioner seeks regular bail in connection with
Bhairav Asthan P.S. Case No. 16 of 2021, lodged under Sections
302/201 of the Indian Penal Code but cognizance was taken
under Sections 396/412 of Indian Penal Code.

As per prosecution case, the F.I.R. has been lodged
against unknown accused persons, it has been alleged in the
F.I.R. that the dead body of nephew of informant was recovered,
suspicion has been raised on the owner of a Mobile, number of
which, is described in the F.I.R.

Learned counsel for the petitioner submits that

petitioner is innocent and has committed no offence. He further submits that the said Mobile named in the F.I.R. does not belong to the petitioner. He categorically stated that name of petitioner has figured in this case by virtue of confessional statement of co-accused Md. Azad. He further submits that the said Md. Azad and one other co-accused namely Md. Jahid have been granted bail by the Co-ordinate Bench of this Court vide orders dated 05.05.2022 and 16.05.2022 passed in Cr. Misc. Nos.50442 of 2021 and 51532 of 2021. Learned counsel for the petitioner further submits that petitioner is in custody since 26.02.2021 and having two criminal cases pending against him, out of two in one case he was acquitted and only one case is pending against him.

Learned counsel for the State opposes the prayer for bail and submits that initially case was lodged under Sections 302/201 of I.P.C. but subsequently charge sheet has been filed under Sections 396/412 of I.P.C. He further submits that recovery was not made from the petitioner's possession, nor he was put on T.I.P. but his name has figured on the basis of confessional statement of co-accused and on the confessional statement of petitioner the car which was used in the crime was recovered.

Upon specific query that whether charge has been framed in this case or not, learned counsel for the petitioner submits that charge has not been framed.

In the present facts and circumstances of this case and the submissions made above, I am not inclined to grant bail to the petitioner, therefore, his bail application is hereby **rejected**.

Petitioner shall be at liberty to renew his prayer for bail after two months of framing of charge in this case and trial court is directed to release the petitioner after two months of framing of charge imposing its own conditions, so that he may not evade during trial.

(Dr. Anshuman, J.)

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