

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63940 of 2021**

Arising Out of PS. Case No.-55 Year-2021 Thana- KHAGARIA District- Khagaria

Nitish Kumar, S/o Late Chandradev Tanti, R/o village- Sobhani Naw
Tavtoliya Jahangira, P.S.- Khagaria, (Gangaur), District- Khagaria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Jitendra Narain Sinha, Advocate

For the Opposite Party/s : Mr.Nawal Kishore Prasad, APP

**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER**

3 24-08-2022 Heard learned counsel for the petitioner and learned
APP for the State.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioner seeks bail in connection with Khagaria (Gangaur) P.S. Case No. 55 of 2021 corresponding to G.R. No. 196 of 2021 registered for the alleged offences under Sections 302, 394 and 120B of the Indian Penal Code and Section 27 of the Arms Act.

As per prosecution case, the husband of the informant worked as agent of Lotus Life Nidhi Company Limited and used to collect money on his behalf. While he was returning after collecting money, the FIR named co-accused along with 3-4



unknown miscreants shot him dead and fled away with all the belongings of the deceased. The name of the petitioner transpired as one of the accused persons during investigation.

The learned counsel for the petitioner submits that the petitioner is not named in the FIR and he has been made accused in this case merely on suspicion. Learned counsel further submits that the petitioner was well known to the informant being a co-villagers but he was not named in the FIR. Moreover, the FIR has been lodged before the police after delay of 15 hours and there is no plausible explanation for it. Even during preparation of inquest report, no suspicion was raised regarding involvement of the petitioner in this case. The name of the petitioner came up in this case on the basis of confessional statement of co-accused Md. Shuja Anwar who admitted that during the course of snatching the belongings of the deceased, he identified the co-accused and therefore, he fired upon the head of the deceased and subsequently another co-accused also fired upon him. Recovery of looted printer machine was made from co-accused Shuja Anwar. The role which was assigned to the petitioner was that he was engaged to watch the movement of police. The finding recorded about the tower location of this petitioner nearby the place of occurrence



is quite natural as he is a co-villager of the informant and occurrence took place in the village. So far as recovery of Voter Id Card of the deceased from the house of the petitioner is concerned, the same is planted. Nothing incriminating has been recovered from the house or possession of this petitioner. Petitioner is in custody since 24.01.2021 and charge-sheet has been submitted.

Learned APP opposes the prayer for bail submitting that the petitioner was named by co-accused in his confessional statement and some recovery has been made pursuant to the confessional statement of the co-accused. This fact has been mentioned in paragraph 46 of the case diary and further from paragraph 50 of the case diary it appears that recovery of Voter Id Card of the deceased was made at the instance of this petitioner. Learned APP further submits tower location was also found near the place of occurrence.

Perused the records.

Having regard to the submissions made hereinabove and considering the gravity of the allegation and the fact that the Voter Id Card of the deceased was recovered at the instance of this petitioner, I am not inclined to grant bail to the petitioner. Hence, the prayer for bail is rejected.



However, the trial court is directed to expedite the trial and conclude the same preferably within a period of nine months.

(Arun Kumar Jha, J)

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