

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64449 of 2021

Arising Out of PS. Case No.-18 Year-2021 Thana- BIHPUR District- Bhagalpur

Atwari Mandal aged about 27 years (Male) Son of Late Suresh Mandal,
Resident of Village - Sahpur, P.S.- Bihpur, District - Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Viveka Nand Singh, Advocate
For the State : Mr. Anuj Kumar Shrivastava, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 22-08-2022 Heard Mr. Viveka Nand Singh, learned counsel
appearing on behalf of the petitioner and Mr. Anuj Kumar
Shrivastava, learned APP for the State.

Petitioner, who is in custody since 13.06.2021, seeks
regular bail in connection with Bihpur P.S. Case No. 18 of 2021
registered for offences punishable under Sections 302/34 of the
Indian Penal Code and Sections 27 of the Arms Act.

Prosecution story in brief is that the father of the
informant was shot dead by firearm at mid night by some
unknown miscreants while he was sleeping. FIR is against
unknown.

Learned counsel appearing on behalf of the petitioner
submits that petitioner is innocent and has falsely been
implicated in the present case merely on the basis of suspicion.



Petitioner is not named in the FIR. There is no eye witness to the incidence. The testimony of the witnesses also reveals that they are not the eye witness and they have heard about the murder of the deceased. He further submits that there is minuscule evidence relating to existing previous enmity between father of the informant and the petitioner. Petitioner has no criminal antecedent and he is in custody since 13.06.2021. On these grounds, petitioner seeks to be released on bail.

Learned A.P.P., for the State has vehemently opposed the prayer for grant of bail to the petitioner.

Having heard the rival submissions of the parties, petitioner is not named in the FIR and testimony of the witnesses reveals that they are not the eye witness to the alleged incidence of murder. The informant, who is the son of the deceased has also not seen the alleged incidence of murder. The petitioner has been made accused on the basis of suspicion. Law is well settled in this regard. Charge-sheet has already been submitted and there is no likelihood of trial being concluded in near future. Prima facie in absence of any evidence against the petitioner, I am of the opinion that the petitioner has made out a case to be released on bail.

The Court below is directed to release the petitioner,



above named, on bail upon furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned A.C.J.M. 1st, Naugachia in connection with Bihpur P.S. Case No. 18 of 2021 subject to the following conditions:

(i) Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

(ii) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.

(iii) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(iv) If the petitioner is found involved in similar nature of offence, after his release on bail, the trial Court shall take steps to cancel his bail bond.

(Purnendu Singh, J)

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