

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10686 of 2023

Arising Out of PS. Case No.-217 Year-2020 Thana- AURAI District- Muzaffarpur

Mikki Thakur @ Mikki Mause S/o Mohan Thakur R/o Village- Bhutane, P.S.-
Bochahan, Distt- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pradeep Kumar Sinha, Adv.

For the Opposite Party/s : Mr. Brajendra Nath Pandey, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

2 04-05-2023 Heard Mr. Pradeep Kumar Sinha, learned counsel
appearing on behalf of the petitioner and Mr. Brajendra Nath
Pandey, learned Additional Public Prosecutor for the State.

The petitioner seeks regular bail, who is in custody in
connection with Aurai (Muzaffarpur) P.S. Case No. 217 of 2020
registered for the offences punishable under Sections 302, 201
and 506/34 of the Indian Penal Code and Section 27 of the Arms
Act.

The prosecution case is based on a written report of
the informant alleging therein that on 31.10.2020, his son Rajiv
Kumar did not return home and thereafter he came to know that
his son was seen at village Shahi Minapur. Thereupon, the
informant went there and found the motorcycle of his son and
his dead body, who was done to death. The suspicion has been



raised against co-accused Sandip Roy, Dipak Kumar and Manoj Roy, with whom there was dispute and co-accused Sandip Roy had threatened his son.

Learned counsel for the petitioner submits that from the FIR, it is evident that the petitioner is not named in the FIR and not even whisper or any suspicion has been made against him. However, during the course of investigation, the name of the petitioner sprung up on the confessional statement of co-accused Akhilesh Kumar, and save and except the confessional statement of co-accused Akhilesh Kumar, which is also hit by Section 25/26 of the Indian Evidence Act, 1872, there is no material suggesting the complicity of the petitioner in the present crime. He further submits that co-accused Manoj Rai and Deepak Kumar, who are named in the FIR, have been allowed the privilege of bail by the different Benches of this Court vide orders dated 16.12.2021 and 15.03.2023 passed in Cr. Misc. Nos. 22921 of 2021 and 54745 of 2022, respectively. He next submits that the reason for false implication of the petitioner is the old enmity with the Akhilesh Kumar and the criminal antecedent of the petitioner, as the petitioner is carrying four criminal antecedents over his head.

On the other hand, learned counsel for the State



opposes the bail application and submits that the name of the petitioner has come during the course of investigation and he appears to be habitual offender.

Regard being had to the submissions made on behalf of the parties and considering the fact that save and except the confessional statement, there is no other material and moreover the persons, who are named in the FIR, have been enlarged on bail, coupled with the period of custody, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Addl. Sessions Judge-18th, Muzaffarpur in connection with Aurai (Muzaffarpur) P.S. Case No. 217 of 2020, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

- (i) The petitioner will cooperate in conclusion of the trial.
- (ii) He will remain present on each and every date of trial till disposal of the case.
- (iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.
- (iv) In the event of default of two consecutive dates



without any cogent reason, his bail bonds will liable to be cancelled.

(v) The court below shall verify the criminal antecedent of the petitioner and, in case, at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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