

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14578 of 2023

Arising Out of PS. Case No.-488 Year-2022 Thana- ARA NAGAR District- Bhojpur

Md. Nausad @ Md. Naushad S/O Md. Nasruddin R/v- Bhaluhipur, Near
Imambara, P.S.- Ara Town, District- Bhojpur, Bihar, PIN- 802301

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ravindra Kumar, Advocate
For the Opposite Party/s	:	Mr. Surendra Kumar, APP
For the Informant	:	Mr. Amit Anand, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 06-07-2023 Heard Mr. Ravindra Kumar, learned counsel for the petitioner, Mr. Amit Anand, learned counsel appearing on behalf of the informant as well as learned Additional Public Prosecutor for the State.

Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Petitioner seeks bail who is in custody since 27.07.2022 in connection with Ara Town P.S. Case No. 488 of 2022, F.I.R. dated 02.06.2022 for the offences punishable under Sections 302, 120B/34 of the Indian Penal Code and Section 27 of the Arms Act.

According to prosecution case, two persons have



killed the husband of the informant and the motive behind the killing was to grab his ancestral property and his participation in the construction of the Jain temple.

Learned counsel for the petitioner submits that petitioner has clean antecedent and he has falsely been implicated in the present case. He further submits that the petitioner is not named in the F.I.R. and the name of the petitioner has been transpired during investigation on the basis of confessional statement of the co-accused persons, namely, Md. Islam @ Kana, Abhinash Kumar Pandey and Sangam Prasun Jain. He further submits that from perusal of the F.I.R. it transpire that the informant is not the eye witness of the alleged occurrence and as per the statement of the informant, she saw that two person have fled away from the place of occurrence but she did not name anyone. He further submits that except the confessional statement of the co-accused persons, no other material has come during investigation to suggest the involvement of the petitioner is the present occurrence. He further submits that the police after investigation submitted the charge sheet on 25.08.2022 against the petitioner. He further submits that similarly situated, co-accused, namely, Md. Shahzad has been granted bail by a co-ordinate Bench of this



Court vide order dated 21.12.2022 passed in Cr. Misc. No. 47512 of 2022 and another co-accused, namely, Md. Mahfuz @ Vickky has been granted bail by a co-ordinate Bench of this Court vide order dated 22.11.2022 passed in Cr. Misc. No. 47819 of 2022. The petitioner is in custody since 27.07.2022.

The learned counsel appearing on behalf of the informant as well as learned Additional Public Prosecutor have vehemently opposed the prayer for bail of the petitioner.

Considering the aforesaid facts and circumstances, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Ara in connection with Ara Town P.S. Case No. 488 of 2022, subject to the following conditions:-

1. Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

2. If the petitioner tampers with the evidence or the witnesses, in that case, the



prosecution will be at liberty to move for cancellation of bail.

3. And further condition that 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 step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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