

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19543 of 2023

Arising Out of PS. Case No.-171 Year-2022 Thana- AGIAON BAZAR District- Bhojpur

BABALU TIWARI S/O VISHWANATH TIWARI Resident of Village-
Amehta, P.S.- Agion Bazar, District- Bhojpur.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ravindra Kumar, Adv.

For the Opposite Party/s : Mr.Dr. Indiar Kumari, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 12-07-2023 Heard learned counsel for the petitioner and the
learned A.P.P. for the State.

The petitioner seeks bail in connection with Agiaon Bazar P.S. Case No. 171 of 2022 dated 06.11.2022 registered for the offence under Sections 442, 420B, 341, 504, 506 and 34 of the Indian Penal Code and Section 25(1-b)a, 26 and 35 of the Arms Act.

According to the prosecution, on the disclosure of co-accused, who has been apprehended by the police having illegal possession of a pistol, this petitioner is apprehended in this case with allegation of having connivance with the co-accused in kidnapping of the victim.

Learned counsel appearing for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case. He further submits that the allegation, as alleged in the F.I.R., is false and fabricated and the petitioner has not committed



any offence. He further submits that on bare perusal of the F.I.R. it appears that no arms have been recovered from the conscious possession of the petitioner, therefore, no case is made out against the petitioner under the Arms Act. He further submits that there is no accusation of assault or any overt act is attributed to the petitioner rather there is general and omnibus allegation attributed to him that he was accompanied with the co-accused persons and his assigned role was to watch the victim who allegedly has been kidnapped by the petitioner and others. He further submits that the prosecution has not recorded the statement of the victim under Section 161 Cr.P.C. He further submits that the police after investigation has submitted charge-sheet in this case against the petitioner. The petitioner is rotting in judicial custody since 09.11.2022.

Learned A.P.P. for the State on the basis of material available on record and the case diary vehemently opposed the prayer for bail of the petitioner and submits that the statement of the victim has been recorded under Section 161 Cr.P.C. which is at paragraph-4 of the case diary in which he has named the petitioner as one of the accused.

Considering the facts and circumstances of the case, let the, above named, petitioner 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 learned Chief Judicial



Magistrate, Bhojpur at Ara in connection with Agiaon Bazar P.S.

Case No. 171 of 2022 with 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/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be canceled 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.

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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