

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22322 of 2023

Arising Out of PS. Case No.-726 Year-2022 Thana- ARARIA District- Araria

Ashfraul @ Asfarul @ Asfarool Haque @ Asfarul Haque Son Of Saiyyad
Hasan @ Saiyad Hussain Resident Of Village - Sisouna Gaiyari, P.S. - Araria,
Distt. - Araria

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ranjeet Choubey, Advocate
For the Informant	:	Mr. Nafisuzzoha, Advocate
For the Opposite Party/s	:	Mr. Brajendra Nath Pandey, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 24-07-2023 Heard learned counsel for the petitioner, learned
counsel appearing on behalf of the Informant and learned APP
for the State.

Petitioner seeks bail, who is in custody since
25.01.2023, in connection with Araria P.S. Case No. 726 of
2022, F.I.R. dated 24.08.2022 registered for the offences
punishable under Sections 302, 201 & 120(B)/34 of the Indian
Penal Code.

As per prosecution case, in brief, is that on
23.08.2022 the informant's son Dawood Alam went to Araria
market and came at Zero Mile at 6:00 P.M. evening where hot
exchange took place between Majhrool Haque and informant's
son due to previous enmity who gave threat to informant's son
for dire consequences. When the informant's son did not return



back to his house, then the informant and his family members started searching his son but he was not traced out. On 24.08.2022 the informant and his family members got knowledge that his son was killed and thrown and the informant has firm believe tht the petitioner and other co-accused persons conspired to each other brutally and mercilessly killed the informant's son Dawood Alam and threw the dead body near Raja Pokhar with a view to screen the evidence of murder

Learned counsel for the petitioner submits that the petitioner is innocent and he has been falsely implicated in the present case merely on the basis of suspicion. He further submits that the informant is not an eye witness of the alleged occurrence and in fact the son of the informant died due to tempo accident and it has come during investigation that a number of anti mortem injury was found on the person of the deceased which shows that son of the informant has died in accident and the present F.I.R. was instituted after delay of more than 24 hours and except the suspicion, no other cogent material has come during investigation against the petitioner to suggest the involvement of the petitioner in the present occurrence and the police after investigation submitted chargesheet against the petitioner and the petitioner is in custody



since 25.01.2023.

The learned counsel appearing on behalf of the Informant as well as learned Additional Public Prosecutor for the State have vehemently opposed the prayer for bail of the petitioner and submits that the petitioner is not named in the F.I.R. but it has come during investigation that the petitioner was involved in the present occurrence. Further submits that the petitioner carries one more case other than the present one.

Considering the facts and circumstances of the case, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Araria in connection with Araria P.S. Case No. 726 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 witness, 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 antecedents, 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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