

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21935 of 2022**

Arising Out of PS. Case No.-33 Year-2021 Thana- KANGLI District- West Champaran

JAFIR MIYA SON OF AKHTAR MIYA R/O VILLAGE- JHUMKA, P.S.-
SIKTA, DIDSTRICK- WEST CHAMPARAN

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bhagya Narayan Jha
For the Opposite Party/s : Mr.Syed Ehteshamuddin

**CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER**

4 12-01-2023 Let the defect(s), as pointed out by the office, be
removed within a period of four weeks from today.

Heard learned counsel for the petitioner and
learned A.P.P. for the State.

The petitioner seeks bail in connection with
Kangli P.S. Case No. 33 of 2021 registered for the offences
punishable under Sections 412 of the IPC and 25(1-b),A, 26 and
35 of the Arms Act.

As per prosecution case, it is alleged that informant
on the basis of secret information finds that three unknown
miscreants were escaping. It is alleged that two miscreants were
fleeing away towards canal and one person was fleeing away
towards Durga Temple. It is further alleged that one of the co-
accused Ravindra Das@ Niranjan Giri was apprehended and



disclosed the name of Jafir Miya (present petitioner) and others who fled away from the spot. It is further alleged that from the possession of apprehended co-accused one loaded desi katta, one cartridge, two black colour mobile and one iron ring fighter were recovered.

Learned counsel for the petitioner submits that petitioner is in custody since 20.05.2021 and bears criminal antecedent of two cases. Charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence. He further submits that petitioner is not apprehended on spot. No incriminating article has been recovered from the conscious possession of the petitioner. He further submits that except confessional statement of co-accused there is nothing on record to demonstrate the complicity of petitioner with the alleged occurrence. He further submits that petitioner is quite innocent and falsely implicated in the case due to enmity between petitioner and co-accused. He further submits that co-accused Ravindra Das @ Niranjan Giri against whom recovery has been made has already been granted bail vide Cr. Misc. No. 55929 of 2021 by the co-ordinate Bench of this Court and the case of present petitioner stands on better footing as he is not apprehended on spot.



The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner.

Considering the facts and circumstances of the case, period of custody, petitioner is not apprehended on spot, nothing has been recovered from the possession of the petitioner, co-accused has already been granted bail by co-ordinate Bench of this Court, charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence, argument advanced on behalf of both sides and also taking into consideration the material available on record, 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, Bettiah, West Champaran in connection with Kangli P.S. Case No. 33 of 2021, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for



cancellation of bail by the learned Trial court itself.

(iii) 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.

(Alok Kumar Pandey, J)

vashudha/-

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