

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22495 of 2023

Arising Out of PS. Case No.-293 Year-2020 Thana- GAYA KOTWALI District- Gaya

MD. KALLU, SON OF MD. ASGAR @ MOHAMMAD ASGHAR, Resident
of Mohalla - Karbala, Eqbal Nagar, P.S. - Kotwali, Distt. - Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ujjawal Kumar Singh, Advocate
For the Opposite Party/s : Mr. Prem Kumar Jha, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 24-06-2023 Heard learned counsel for the petitioner and learned
APP for the State of Bihar.

The petitioner is apprehending his arrest in connection
with Kotwali P.S. Case No. 293 of 2020 registered under
Sections 302, 120B and 34 of the Indian Penal Code and Section
27 of Arms Act.

As per FIR, there is an allegation of 7 named persons
along with 7 to 8 unknown persons having killed the informant's
son. It is alleged that prior to killing, he was taken away for
consuming *Ganja*.

Learned counsel for the petitioner submits that
allegations is based only on suspicion. Prior to institution of the
instant case, the petitioner had no antecedents and only after his
arrest in the instant case, he has falsely been implicated in



Kotwali P.S. Case No. 303 of 2020. It is a case of false implication. Informant is not an eye-witness. Except for suspicion, there is no basis for the petitioner's implication. One co-accused namely Md. Zeeshan, similarly situated as the petitioner, has been allowed privilege of anticipatory bail in *Cr. Misc. No. 38716 of 2020*. There is also no allegation of any effort to tamper with the witness attributed against the petitioner.

Learned APP for the State has opposed the prayer for bail.

Considering the rival submissions, the fact that nature of allegation is general, omnibus and against about 14 to 15 persons and considering the petitioner's claim based on parity with co-accused Md. Zeeshan, this Court is inclined to allow petitioner's prayer for grant of anticipatory bail.

Petitioner's prayer for anticipatory bail is allowed.

Accordingly, let the petitioner, above named, in the event of his arrest or surrender before the court below within a period of four weeks from today, be released on bail on furnishing bail bond of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Gaya, in connection with



Kotwali P.S. Case No. 293 of 2020, subject to the conditions as laid down in Section 438(2) of the Code of Criminal Procedure as also subject to the following conditions:

- (i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the court if there is any change in the address of the petitioner.
- (ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

(Madhuresh Prasad, J)

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