

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31248 of 2022**

Arising Out of PS. Case No.-52 Year-2022 Thana- JAGDISHPUR District- Bhagalpur

Md Imtiyaz S/o Md. Nasim Resident of Village- Puraini, P.S.- Jagdishpur,
District- Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr. Advocate.
	:	Md. Najmul Hodda, Advocate.
For the Opposite Party/s	:	Mr. Shyameshwar Dayal, APP.

**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER**

3 11-01-2023 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

Heard Mr. N.K. Agrawal, learned senior counsel for the petitioner duly assisted by learned counsel Md. Najmul Hodda and learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Jagdishpur P.S. Case No. 52 of 2022, registered for the offences punishable under Sections 302/34 of the Indian Penal Code and Section 27 of the Arms Act.

The prosecution case is based on the fardbayan of the informant alleging therein that on 11.02.2022 at about 08:30 PM, she received an information that her husband has been



shot dead, upon which she went to the place of occurrence and found that her husband sustained fire arm injury in his left temple. The injured was brought to the hospital, where he declared dead. It is alleged that the petitioner had illicit relation with the informant's *Gotni*, which was protested by the informant's husband and there was a dispute relating to drainage and on account of that the petitioner along with 3-4 miscreants committed murder of the informant's husband.

Learned senior counsel appearing on behalf of the petitioner submits that admittedly the informant was not an eyewitness to the alleged occurrence and save and except the suspicion that too on account of the so-called illicit relation between the petitioner and the informant's *Gotni*, his name has been implicated in this case. He further submits that during the course of investigation one of the witness whose statement has been recorded in paragraph no.38 of the case diary, has disclosed that after the alleged occurrence he had seen a person, like the petitioner and 3-4 unknown miscreants fleeing from the place of occurrence and save and except the material as stated above there is nothing in the case diary which suggest the complicity of the petitioner in the present crime. He next submits that there is only one injury found over the body of the



deceased and even as per the prosecution case it appears that 4 to 5 persons were found involved in committing the murder of the husband of the informant.

On the other hand learned APP for the State vehemently opposes the bail application and submits that the petitioner was identified by one of the witness while he was fleeing from the place of occurrence, apart from the fact that the husband of the informant had been opposing the illicit relationship of the petitioner and informant's *Gotani* and the motive is apparent.

Regard being had to the submissions made on behalf of the parties and considering the materials available in the case diary, there is no eyewitness to the alleged occurrence and save and except the statement of the witness that petitioner was found fleeing from the place of occurrence there is no material suggesting the complicity of the petitioner and the petitioner having fair antecedent, is in custody since 21.02.2022 and moreover the investigation of the crime is already complete and the charge-sheet has been submitted, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial



Magistrate, Bhagalpur in connection with Jagdishpur P.S. Case No. 52 of 2022, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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