

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31877 of 2022

Arising Out of PS. Case No.-1 Year-2022 Thana- PALASI District- Araria

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Sah Khurshid @ Khurshid, Son of Late Sah Jamil @ Jamil, R/O Village-Tarbi, Ward No.-01, P.S.- Palasi, District- Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Gopal Kumar Jha, Advocate

For the Opposite Party/s : Mr. Nagendra Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 08-02-2023 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Gopal Kumar Jha, learned counsel appearing on behalf of the petitioner and the learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Palasi P.S. Case No. 1 of 2022 registered for the offences punishable under Sections 302/34 of the Indian Penal Code.

On 31.12.2021, while the informant was standing at the door along with his son, in the meantime, co-accused Md. Martin came there and took away the informant's son by assuring that they will return soon. After some time the informant saw



that the petitioner and other co-accused persons, named in the FIR, had tied plastic rope around the neck of his son and were assaulting him and dragging him towards his house. However, on halla, the accused persons threw the son of the informant in nearby bush and fled away, later on the son of the informant succumbed to the injuries.

Learned counsel appearing on behalf of the petitioner submits that from the FIR it is evident that the accused Md. Matin, had taken away the son of the informant, however, on account of the previous dispute relating to the death of the daughter of the petitioner, who was the wife of the deceased, his name has been implicated in this case. The falsity of the case is also evident during the course of investigation, the other co-accused persons named in the FIR have not been sent up for trial. It is also submitted that even during the course of investigation none of the witness has made any specific allegation and in fact there is no eyewitness to the alleged occurrence. He next submits that save and except the general and ominous allegation, there is no other cogent material suggesting the involvement of the petitioner and, moreover, the petitioner having fair antecedent, is in custody for over a period of one year and he is ready to give undertaking that he will fully



co-operate in the trial till its conclusion.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that in fact during the course of investigation, the materials have come against the petitioner due to which the charge-sheet has been submitted against him and so far other accused persons are concerned, having found no involvement, they have not been sent up for trial.

Regard being had to the submissions made on behalf of the parties and considering the fact that the petitioner was not the person who had taken away the son of the informant, apart from general and ominous allegation and so far the allegation of assault against other persons are concerned, that has not been supported by any independent witness, coupled with the period of custody and fair antecedent, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate 1st, Araria in connection with Palasi P.S. Case No. 1 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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