

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38030 of 2023**

Arising Out of PS. Case No.-113 Year-2023 Thana- KHAGARIA District- Khagaria

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Ashish Kumar @ Guddu Kumar S/O Chunchun Yadav @ Chunchun Kumar
R/O Baluahi, P.S- Town, Distt.- Khagaria (Bihar).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bishweshwar Ram, Advocate

For the Opposite Party/s : Mr. Dashrath Mehta, APP

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CORAM: HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI
ORAL ORDER

- 2 03-08-2023 1. This application is filed under Section 438 of the Code of Criminal Procedure, 1973 with a prayer that the applicant be enlarged on anticipatory bail in the event of his arrest in connection with Khagariya P.S. Case No. 113 of 2023 dated 04.02.2023 for the alleged offences punishable under Sections 386, 506, 504 and 353 of the I.P.C.
2. Heard Mr. Bisheshwar Ram, learned advocate for the applicant and Mr. Dashrath Mehta, learned APP for respondent-State.
3. Learned advocate for the applicant submitted that the present applicant has been falsely implicated in the F.I.R. in question and, in fact, the applicant has also filed F.I.R. against the present informant. The wife of the applicant has lodged F.I.R. against the first informant for the alleged offences



punishable under Section 341, 323, 384, 504, 506 of the I.P.C. It is submitted that because of the registration of the said F.I.R., the applicant, who is the husband of the informant of the said case has been implicated. A copy of the said F.I.R. is placed in page-17 of the compilation.

4. Learned counsel further submitted that *prima facie* the story put forward by the complainant is not believable and though, another F.I.R. was registered against the applicant, the said case has been disposed of in Lok Adalat.

5. Learned counsel, therefore, urged that while the applicant has been falsely implicated in the F.I.R. in question, this Court may exercise discretion in his favour and grant protection to him.

6. On the other hand, learned Advocate for the original first informant as well as the learned APP have opposed this application.

7. It is submitted that specific allegations are levelled against the present applicant in the F.I.R. in question. The applicant came to the house of the office of the informant with a country-made pistol and snatched away ₹ 10,000/- from him. It is submitted that from the allegations levelled in the F.I.R. the prosecution has made out *prima facie* case.



8. Learned counsel, therefore, urged that this application may not be entertained.

9. I have considered the submissions canvassed by learned counsel appearing for the parties and have also perused the material placed on record. If the F.I.R. in question is carefully seen, it is revealed that specific allegations are levelled against the applicant that he came to the office of the first informant with a country-made pistol and gave threats to the first informant.

10. I have gone through the allegations levelled against the applicant from which it is revealed that the prosecution has made out a *prima facie* case against him. It is true that the wife of the present applicant has filed F.I.R. against the first informant of the present case. However, it is revealed that the wife of the applicant has lodged the F.I.R. only on 09.02.2023 for the alleged incident which took place on 04.02.2023.

11. This Court has also considered the punishment prescribed for the alleged offences and the fact that when the specific allegations are levelled in the F.I.R. that the present applicant along with three or four other unknown persons came at the place of the first informant, the custodial interrogation of



the applicant is necessary.

12. Looking to the overall facts and circumstances of the present case, I am not inclined to entertain the present application.

13. Accordingly, the application stands dismissed.

(Vipul M. Pancholi, J)

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