

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37997 of 2022

Arising Out of PS. Case No.-78 Year-2019 Thana- AURAI District- Muzaffarpur

ANISH KUMAR @ AVNISH THAKUR @ PULICIYA SON OF LATE
HARI NARAYAN SHARMA R/O VILLAGE- BASUA, P.S.- AURAI,
DISTICT- MUZAFFARPUR

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rachana Saraswati

For the Opposite Party/s : Mr.Sangeeta Sharma

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

4 25-01-2023 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 Aurai
P.S. Case No. 78 of 2019 registered for the offences punishable
under Sections 302/34 of the I.P.C. read with Section 27 of the
Arms Act.

As per prosecution case, four unknown miscreants
killed the informant's son.

Learned counsel for the petitioner submits that
petitioner is in custody since 24.07.2022. Petitioner has been
made accused in one case and in the same he had been acquitted



of charges. Charge sheet has already been submitted in the case and there is no likelihood of tampering with the prosecution evidence. Learned counsel further submits that the petitioner is not named in the F.I.R. The date of occurrence is 22.03.2019 and the name of petitioner has been surfaced on the basis of confessional statement of Golu Mishra after two and half years from the date of occurrence. Except confessional statement of co-accused Golu Mishra and self confessional statement of the petitioner, there is nothing on record to demonstrate the complicity of the present petitioner with the alleged occurrence. There is no tangible materials available on record against the present petitioner to connect him with the alleged occurrence. There is no eye witness to the alleged occurrence.

The learned A.P.P. for the State and learned counsel for the informant vehemently opposes the prayer for bail of the petitioner and submits that the petitioner is one of the accused persons who participated in the alleged occurrence.

Considering the facts and circumstances of the case as well as period of custody, petitioner is not named in the F.I.R., charge-sheet has already been submitted and there is no likelihood of tampering with the prosecution evidence, argument advanced on behalf of the parties 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 ACJM – XIII, Muzaffarpur in connection with Aurai P.S. Case No. 78 of 2019, 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)

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