

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40871 of 2023**

Arising Out of PS. Case No.-55 Year-2021 Thana- KHAGARIA District- Khagaria

Nitish Kumar S/O Late Chandradev Tanti R/O Village- Shovni Nav Toliya
Jahangira PS. Khagaria (Gangaur), Dist. Khagaria

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Amardeep, Advocate

For the Opposite Party/s : Mr. Nirmal Kumar Sinha, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

7 22-12-2023 Heard learned counsel for the petitioner and learned
APP for the State.

02. This is the second attempt of the petitioner to seek bail from this Court in connection with Sessions Case No. 249 of 2021 arising out of Khagaria (Gangaur) P.S. Case No. 55 of 2021, registered on 13.01.2021 for the alleged offences under Sections 302, 394 and 120(B) of the Indian Penal Code and Section 27 of the Arms Act, as his prayer for bail was earlier rejected vide order dated 24.08.2022 passed in Criminal Misc. No. 63940 of 2021.

03. As per prosecution case, the allegation against the petitioner is that he conspired with other co-accused persons for committing murder of the husband of the informant.



04. Learned counsel for the petitioner submits that while rejecting the prayer for bail of the petitioner, the learned trial court was directed to conclude the trial within a period of nine months, but the trial is still running at the stage of prosecution evidence. Learned counsel further submits that the petitioner is in custody since 24.01.2021, but there is no likelihood of conclusion of the trial in the near future. Learned counsel further submits that the name of the petitioner transpired in the confessional statement of co-accused Md. Suja Anwar. Learned counsel further submits that one of the co-accused persons, namely, Md. Gulchaman @ Shahnabaj has been granted bail by a Co-ordinate Bench vide order dated 29.03.2022 passed in Criminal Misc. No. 44642 of 2021. Learned counsel further submits that recovery of looted printer machine was made from co-accused Md. Suja Anwar and the only thing recovered from this petitioner was Voter I-Card of the deceased and there could be umpteen number of reasons for having the Voter I-Card of the deceased since the deceased was known to the petitioner and he and for any purpose the Voter-ID would have been handed over to the petitioner. Otherwise, no incriminating material has been recovered from the petitioner and no tangible fact has come up against his involvement. The



petitioner and the informant are residents of same locality, but the informant has not named this petitioner for his involvement in the occurrence. For the same reason, the tower location could not be an indicator of the complicity of the petitioner.

05. Learned APP for the State opposes the prayer for bail. Learned APP submits that no new facts have come up before this Court to reconsider the prayer for bail of the petitioner.

06. Perused the records.

07. Towards compliance of the order dated 08.12.2023, a report dated 18.12.2023 has been received from the learned Additional District & Sessions Judge-1st-cum-Special Judge, Khagaria, wherein he has submitted that one of the co-accused persons, namely, Gulchaman has absconded and the trial was delayed due to this reason. The trial of Gulchaman has been separated on 16.12.2023 and now the case has been fixed for recording of evidence of prosecution witnesses.

08. Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the possibility of trial getting delayed and further considering the period of custody of the petitioner, the petitioner above named is directed to be released on bail on furnishing bail bonds of Rs.



20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-III, Khagaria/concerned court in connection with Sessions Case No. 249 of 2021 arising out of Khagaria (Gangaur) P.S. Case No. 55 of 2021 (G.R. No. 196 of 2021), subject to the conditions mentioned in Section 437(3) of the Cr.P.C. and the following conditions:

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence for three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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