

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41063 of 2023**

Arising Out of PS. Case No.-178 Year-2023 Thana- GAYA MUFASIL District- Gaya

RAJESH PRASAD @ RAJESH @ DARA @ DARA YADAV son of Rajrup
Village- Suheri Tola Ps- Muffasil Dist- Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sharda Nand Mishra, Adv.

For the Opposite Party/s : Mr.Murli Dhar,APP

Mr.Bindhya Keshri Kumar, Sr.Adv.

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER**

3 25-09-2023

Heard learned counsel for the parties.

2. The petitioner apprehends his arrest in a case registered for the offence under Sections 302, 120(B)/34 of the Indian Penal Code and Section 27 of the Arms Act.

3. As per the prosecution case, after relieving from house of his friend, husband of informant reached his house to have refreshment and as soon as he came out of the house, the informant heard sounds of gunshot. She further alleged that in the light of bulb, she identified some of the F.I.R. named co-accused persons fleeing from the place of occurrence. She claims that the deceased disclosed that F.I.R. named accused persons have shot him.

4. It is submitted on behalf of the petitioner that though, informant claims to be eye witness of the occurrence,



but has not seen or named this petitioner, as one of the persons, who fled away from the place of occurrence. Petitioner and his entire family members have been made accused in this case only because of family dispute. At best, as per F.I.R., petitioner is only alleged to be conspirator and there is no allegation of any overt act against him. He is not alleged to have participated in the commission of offence.

5. Learned A.P.P. for the State as well as learned senior counsel for the informant have opposed the prayer for anticipatory bail and submitted that petitioner and other co-accused persons have committed the murder of husband of informant. During course of investigation, it has come that prior to the alleged occurrence, petitioner and other accused persons have threatened the deceased to execute the sale deed or he would face the consequences, for which, the husband of informant (deceased) had filed informatory application before learned Magistrate against the accused persons.

6. Considering the rival submission of the parties and materials available on record and the fact that the petitioner is alleged to be conspirator and there is no material against him in support of the same except old dispute, the prayer for anticipatory bail of this petitioner is allowed.



7. Let the petitioner, above named, in the event of arrest/surrender within a period of six weeks from today, let the above named petitioner be enlarged on bail on furnishing bail-bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate, 1st Class, Gaya, in connection with Muffasil (Gaya) P.S. Case No. 178 of 2023, subject to condition as laid down under Section 438(2) of the Code of Criminal Procedure, with further two conditions:

(A) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on his absence on two consecutive dates without sufficient reason, his bail bonds shall be cancelled by the Court below.

(B) 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.

(Prabhat Kumar Singh, J)

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