

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40974 of 2023

Arising Out of PS. Case No.-71 Year-2023 Thana- POTHIA District- Kishanganj

MD. ALAUDDIN Son of Late Tamjeddin @ Badiya Resident of village -
Piyakuri, P.S. - Pothia, Distt. - Kishanganj

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Bhola Prasad, Advocate
For the Opposite Party/s :	Mr. Arun Kumar Pandey, APP
For the Informant :	Mr. Sunil Kumar, Advocate
	Mr. Pankaj Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 2 04-08-2023 1. Heard learned counsel for the petitioner and learned A.P.P. for the State along with learned counsel for the informant.
2. The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 302 and 34 of the Indian Penal Code.
3. Learned counsel for the petitioner submits that the petitioner is a person with clean antecedent and the case has a chequered history. It is next submitted that one Md. Saheb instituted Pothia P.S. Case No. 70 of 2023 dated 31.03.2023 alleging therein that on 30.03.2023 at 05:00 PM when he along with his mother had gone to her maternal



grandmother's house when at 11:00 PM he got an information that Maksab along with Rahi Akhtar, Muntajir along with two unknown accused have forcibly administered poison to his sister Thofa Begum, accordingly, he came to his house and saw his sister in an unconscious state and Maksab was kept in captivity by the villagers, rest of the accused had fled, next alleges that his younger sister Rumi disclosed that Rahi Akhtar had administered poison to Thofa while other accused persons were holding her, accordingly, Thofa was brought to Pothia hospital for treatment and thereafter she was referred to Islampur for better treatment. It is next submitted that Thofa, prior to institution of Pothia P.S. Case No. 70 of 2023, had instituted Mahila P.S. Case No. 05 of 2022 dated 02.02.2022 against Md. Maksab and five other accused persons alleging that on pretext of marriage Maksab established physical relationship with her, it is next submitted that in Mahila P.S. Case No. 05 of 2022 instituted by Thofa, the present petitioner is a charge-sheet witness. It is next submitted that the present FIR in which the petitioner is seeking anticipatory bail was instituted on 31.03.2023 by Rahi



Akhtar who is an accused in Pothia P.S. Case No. 70 of 2023, alleging that the petitioner along with five named accused persons and 4-5 unknown accused abducted Md. Maksab and he was confined in the house of Irshad in the night where he was brutally assaulted and was hanged to death.

4. Learned counsel for the petitioner submits that the petitioner has been falsely implicated for the reason that he is a charge-sheet witness in the case instituted by Thofa Begum against Md. Maksab (deceased of the present case) and others, it is next submitted that from perusal of the allegation as alleged in Pothia P.S. Case No. 70 of 2023, it would manifest that the brother of Thofa Begum has alleged that she was administered poison by the accused persons including the deceased and the accused persons fled, but deceased was apprehended and confined by the villagers. It is, thus, submitted that the informant of the present case is not an eye witness to the occurrence nor the dead body of the deceased was found in the house of the petitioner, as such, merely based on suspicion, the petitioner has been implicated in the present case when petitioner, admittedly, is



a person with clean antecedent and is aged about 70 years and all of a sudden he has been made a criminal after institution of the present F.I.R. alleging that he was also involved in the occurrence of killing of Md. Maksab, but then the informant is not an eye witness to the occurrence nor the dead body of the deceased was recovered from the house of the petitioner and petitioner is a charge-sheet witness against the brother of the present informant in Mahila P.S. Case No. 05 of 2022.

5. Learned A.P.P. for the State along with learned counsel for the informant opposes the prayer for anticipatory bail of the petitioner, but are not in a position to rebut the submissions of the learned counsel for the petitioner that the informant is not an eye witness to the occurrence, the petitioner is a charge-sheet witness in Mahila P.S. Case No. 05 of 2022 and the petitioner, till the age of 70 years, has remained a person with clean antecedent and all of a sudden he has been accused of committing an occurrence of murder.

6. Considering the submissions made by the learned counsel for the petitioner, the petitioner above-



named, in the event of his arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Pothia P.S. Case No. 71 of 2023 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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