

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44823 of 2022

Arising Out of PS. Case No.-875 Year-2019 Thana- SARAIYA District- Muzaffarpur

Md. Aalam @ Md. Alam S/o Late Nathu Miya R/o village- Goriyara, P.S.-
Karja, Distt.- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Rajendra Narayan, Sr. Advocate Mr. Pankaj Kumar Singh, Advocate
For the Informant	:	Mr. Yugal Kishore, Advocate
For the APP	:	Mr. Vinod Shanker Modi, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

6 17-04-2023 Heard Mr. Rajendra Narayan, learned Senior counsel
for the petitioner,, Mr. Yugal Kishore, learned counsel appearing
on behalf of the Informant and Mr. Vinod Shanker Modi,
learned APP for the State.

Petitioner seeks bail, who is in custody since
08.08.2021, in connection with Saraiya P.S. Case No. 875 of
2019, F.I.R. dated 30.12.2019 registered for the offences
punishable under Sections 302, 120(B)/34 of the Indian Penal
Code.

The prosecution case, in brief, is that on 29.12.2019 at
about 9:00 A.M. petitioner along with six other accused persons
and twenty unknown persons came to the informant's house and
assaulted him, misbehaved with the female members of the



family and snatched Rs. 20,000/- and tried to kidnap the informant upon which the informant's father and younger brother tried to save him but Md. Alam in order to kill them crushed them with his four wheeler, thereafter villagers intervened and caught Md. Majid whereas other accused persons fled away.

Learned senior counsel for the petitioner submits that the petitioner is innocent and he has been falsely implicated in the present case. He further submits that the allegation as alleged in the F.I.R. is false and fabricated and the petitioner has no role at all in the present occurrence. Learned senior counsel for the petitioner further submits that the informant is claimed to be eye witness of the alleged occurrence but the F.I.R. was instituted after 32 hours of the occurrence. Further submits that there is general and omnibus allegation against all the accused persons including the petitioner and on the instruction of the petitioner the accused person crushed them with his four wheeler. Further submits that co-accused Md. Majid was not arrested at the spot and he was arrested at his home next day in the night. Further submits that the main allegation against co-accused persons namely Md. Vakil, Md. Kalam, and Md. Mustafa @ Md. Guletan have been granted anticipatory bail by



a Coordinate Bench of this Court vide order dated 03.03.2022 passed in Cr. Misc. No. 19005 of 2021 and another co-accused person namely Md. Naushad has been granted bail by a Coordinate Bench of this court vide order dated 16.06.2022 passed in Cr. Misc. No. 10225 of 2022.

Vide order dated 02.03.2023, a report was called for with regard to the stage of the trial. Report dated 29.03.2023 of the learned Trial court reveals that the case is pending for the prosecution evidence and on 16.09.2022 P.W. 1 was examined and thereafter the prosecution has not examined any witness.

Learned Senior counsel for the petitioner further submits that in view of the report, there is no chance of early conclusion of the trial in near future and the petitioner is in custody since 08.08.2021 and similarly situated co-accused persons have been granted anticipatory bail as well as regular bail by this Hon'ble Court.

Learned counsel appearing on behalf of the Informant as well as learned Additional Public Prosecutor for the State have vehemently opposed the prayer for bail of the petitioner and submits that there is specific allegation against the petitioner and the petitioner carries carries three more cases other than the present one.



Considering the facts and circumstances of the case that the petitioner is in custody since 08.08.2021 and the other co-accused persons have been granted anticipatory bail and regular bail by this Hon'ble Court, 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 Additional Chief Judicial Magistrate 1st, West, Muzaffarpur in connection with Saraiya P.S. Case No. 875 of 2019, subject to the following conditions :-

(1) 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 bond shall be cancelled by the Court below.

(2) If the petitioner tampers with the evidence or the witness, in that case, the prosecution will be at liberty to move for cancellation of bail.

(3) And, further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his criminal antecedents, the court below shall take step for



cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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