

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45368 of 2023

Arising Out of PS. Case No.-74 Year-2023 Thana- MOUZAHDIPUR District- Bhagalpur

Md. Sonu @ Basim @ Md. Basim, Son of Md. Rafique, Resident of Mohalla
- Maulanachak, P.S.- Habibpur, District - Bhagalpur.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner	:	Mr. Shashank Chandra, Advocate Md. Najmul Hodda, Advocate Mr. Shashank Shekhar, Advocate Mr. Ashutosh Kumar, Advocate Mr. Nitish Kumar, Advocate
For the State	:	Mr. Akhileshwar Dayal, APP
For the Informant	:	Mr. I.P. Mandal, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 11-10-2023 Heard learned counsel for the petitioner, learned
counsel for the informant and learned APP for the State.

2. The petitioner in the present case is seeking pre-arrest bail in connection with Mojahidpur P.S. Case No. 74 of 2023 registered for the offences punishable under Sections 307, 120(B), 34 of the Indian Penal Code and Section 27 of the Arms Act, later on Section 302 of the Indian Penal Code and Section 25(1-b)a of the Arms Act were also added. The petitioner has no criminal antecedent.

3. As per the prosecution story, the informant alleged that on 22.02.2023 at about 05:30 P.M., co-accused Md. Afsar, Md. Adnan and Md. Afroz @ Kallu shot at her son-in-law and fled away. It is alleged that co-accused Md. Sabir (former ward



member), his nephew, namely, Sonu (petitioner) and Sikander were also involved in this occurrence on account of a dispute relating to ward election. It is further alleged that co-accused Rahmat Kuraishi, Shahjahan @ Pasha, Md. Aftab and Md. Saddam had earlier fired on the son-in-law of the informant. The informant also alleged that Md. Istiyak, Md. Guddu and Fulwali Rani were also involved in the said occurrence.

4. Learned counsel for the petitioner submits that it is a case of false implication of the petitioner. Save and except that the name of the petitioner has transpired in the confessional statement of the co-accused Md. Afsar who is the alleged shooter, there is nothing to connect the petitioner with the present case. He is nephew of co-accused Md. Sabir whose wife had contested the local Panchayat election and had lost to the wife of co-accused Md. Abdul Sarwar Kuraishi @ Mintu.

5. Learned counsel submits that in this case, the co-accused Abdul Sarwar Kuraishi @ Mintu whose name has transpired as the person who had been involved behind the alleged occurrence has been granted privilege of anticipatory bail by learned Additional District and Sessions Judge-XIV, Bhagalpur in A.B.P. No. 2381 of 2023. Learned counsel further submits that co-accused Md. Saddam Ali @ Saddam Ali @ Md.



Saddam whose name has transpired as one of the conspirators in the FIR has been granted privilege of anticipatory bail by a learned Co-ordinate Bench of this Court in Cr. Misc. No. 46858 of 2023.

6. Learned APP for the State as well as learned counsel for the informant have jointly opposed the prayer for anticipatory bail of the petitioner. It is submitted that so far as this petitioner is concerned, his case is distinguishable inasmuch as Md. Afsar, who is said to be the shooter has, in his confessional statement not only disclosed the name of his other associates but also disclosed about the weapon which was used in the alleged occurrence and at his instance, the weapon was also recovered. It is submitted that since the name of the petitioner has transpired in the statement of Md. Afsar as an associate and this being an application for grant of anticipatory bail, this Court may not exercise its discretion to grant privilege of anticipatory bail to the petitioner.

7. Learned counsel for the petitioner submits that the name of Md. Saddam had also transpired in the confessional statement of the co-accused Md. Afsar, however, learned counsel for the informant has sought to distinguish the case of the present petitioner with reference to the materials present in



paragraph '180' of the case diary wherein the I.O. has recorded that no material has come in course of investigation on the point of involvement of Md. Sabir and Md. Saddam.

8. Having regard to the facts and circumstances of the case, on noticing that the name of the petitioner has transpired in the statement of the main accused Md. Afsar who had allegedly shot at the deceased, this Court is not inclined to grant privilege of anticipatory bail to the petitioner.

9. The prayer for anticipatory bail of the petitioner is, thus, refused.

10. In case the petitioner surrenders and prays for regular bail within a period of four weeks from today in the learned court below, his prayer for regular bail shall be considered on its own merit without being prejudice by the order of this Court.

11. This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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