

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52593 of 2023

Arising Out of PS. Case No.-45 Year-2020 Thana- MUFFASIL District- West Champaran

NAWAL MAHTO SON OF SHAMBHU MAHTO VILLAGE RANI PAKRI
POST OFFICE PIPRA PAKARI POLICE STATION BETTIAH MUFFASIL
DISTRICT WEST CHAMPARAN

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Brij Kishor Mishra

For the Opposite Party/s : Mr.Binod Kumar

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

- 3 25-08-2023 1. Heard learned counsel for the petitioner, learned counsel for the informant and learned A.P.P. for the State.
2. The petitioner is apprehending his arrest in connection with Bettiah Muffasil P.S. Case No. 45 of 2020 registered for the offences punishable under Sections 302, 120(B)/34 of the Indian Penal Code.
3. As per prosecution case, informant's son was abducted by unknown persons. The co-villagers informed the informant that they heard the cry of his son. Upon which the informant started searching his son. In the meantime, co-accused Deeplal told the informant on phone that informant's son collided with his tractor which was being driven by the petitioner due to which he died on the spot. On said information,



the informant reached there and found the dead body of his son but he did not find any blood stain on the spot nor any injury on his body. The informant has claimed that all the FIR named accused persons including the petitioner have murdered his son.

4. Learned counsel for the petitioner submits that petitioner is innocent and has committed no offence as alleged in the FIR and he has falsely been implicated in this case. Petitioner bears criminal antecedent of one case in which he is on bail. He further submits that charge sheet has been submitted under sections 279, 304(A)/34 of the Indian Penal Code but trial court has taken cognizance under Sections 302, 120(B)/34 of the IPC against the petitioner. He further submits that co-accused Deeplal has already been granted anticipatory bail on 06.12.2022 vide Cr. Misc. No. 45586 of 2022 by the co-ordinate Bench of this Court on the ground that the said co-accused is neither owner nor driver of the vehicle in question and the case of present petitioner stands on similar footing so the similar treatment be metted out to the present petitioner.

5. The learned A.P.P. for the State and learned counsel for the informant oppose the prayer for anticipatory bail of the petitioner. It is further submitted by learned counsel for the informant that FIR has been registered in the year 2020 and



the trial has not been initiated as yet because the petitioner has not surrendered before the concerned court despite being his name has been found in the FIR, charge-sheet and even cognizance has been taken against him. It is further submitted by the learned counsel for the informant that in the light of said submission petitioner does not deserve anticipatory bail.

Considering the facts and circumstances of the case, particularly keeping in mind that the case was instituted in the year 2020 and trial has not been initiated till today as the petitioner has not surrendered before the concerned court, I am not inclined to grant privilege of anticipatory bail to petitioner. Accordingly, the prayer for anticipatory bail of the petitioner is, hereby, rejected.

However, petitioner is directed to surrender before the concerned court within four weeks from today and if petitioner does so, the trial court may consider the submissions advanced on behalf of the petitioner.

(Alok Kumar Pandey, J)

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