

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49151 of 2023

Arising Out of PS. Case No.-26 Year-2018 Thana- RAMGARHWA District- East Champaran

Nurool @ Md. Nuraj @ Nurool Azam S/O Raisul Azam R/O Village- Murli,
Gauripur, Ps. Balthar, Dist. West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bimlesh Kumar Pandey

For the Opposite Party/s : Mr.Upendra Kumar

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

4 17-10-2023 Heard learned counsel for the petitioner and the learned
Additional Public Prosecutor (for brevity 'APP') for the State.

2. The petitioner is apprehending his arrest in connection with Ramgarhwa P.S. Case No. 26 of 2018 registered for the offence punishable under Sections 302, 201, 379, 34 of the Indian Penal Code (for brevity 'IPC').

3. The informant's husband had gone for getting the vehicle serviced, whereafter he intimated to the informant that he has been hired for some transport. Later, dead body has been recovered and during course of investigation, three (3) persons were arrested, who have stated about the involvement of total six (6) persons, including the petitioner in the killing. The vehicle of the deceased has also been recovered upon statement of these co-accused persons.



4. Learned counsel for the petitioner submits that other than the statement of co-accused, there is nothing to incriminate the petitioner in the alleged occurrence. He has further submitted that one 'Sajiad' (co-accused) has earlier been allowed anticipatory bail in *Cr. Misc. No. 28890 of 2019*.

5. Learned APP for the State has opposed the prayer for anticipatory bail.

6. Considering the rival submissions, the Court would find that against the petitioner, there are four (4) criminal antecedents, as per disclosure made in paragraph No. 3 of the bail petition, including criminal antecedent of offence under Section 302 of the IPC. The person with whom he is claiming parity was granted bail vide order dated 03-05-2019 (Annexure-2) in *Cr. Misc. No. 28890 of 2019*, from which it is apparent that there is no consideration that the said accused had any criminal antecedents. The fact of recovery, based on statement of the co-accused, who have implicated the petitioner also was not brought to the notice of the Court, while passing the order in *Cr. Misc. No. 28890 of 2019*.

7. Having regard to these facts, nature of allegations, explanation regarding criminal antecedents, the Court finds that the petitioner is not in a position to claim parity with the co-



accused, beneficiary of *Cr. Misc. No. 28890 of 2019*, this Court is not inclined to allow petitioner's prayer for grant of anticipatory bail.

8. Learned counsel for the petitioner submits that the person from whom recovery is made, namely, ' Sekh Kamrul Hoda', was subsequently allowed bail in *Cr. Misc. No. 76463 of 2019* on 22-01-2020. Upon grant of bail to these co-accused and claiming parity with him, the petitioner will be availing his remedy of regular bail.

9. The submission to this effect is required to be considered by the Court without being effected by rejection of the petitioner's prayer for anticipatory bail in accordance with law.

(Madhuresh Prasad, J)

Raj kishore/-

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