

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52465 of 2023

Arising Out of PS. Case No.-98 Year-2023 Thana- GUTHANI District- Siwan

Udhay Bhan Kumar @ Mantu Rajbhar @ Udaybhan Kumar Son Of Ram
Ekbal Prasad @ Indradeo Rajbhar R/O-Dewaria, P.S.-GUTHANI, Distt.-
Siwan

... .. Petitioner/S

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Yogesh Chandra Verma, Sr. Adv.
	:	Mr. Rama Nand Poddar, Adv.
	:	Mr. Satya Nand Shukla, Adv.
For the Opposite Party/s	:	Mr. Dr. Indihar Kumari, APP
For the Informant	:	Mr. Arbind Kr. Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

4 11-10-2023 Heard Mr. Yogesh Chandra Verma, learned senior

counsel for the petitioner, learned A.P.P. for the State and

counsel for the informant.

2. The petitioner seeks regular bail in connection with
Guthani P.S. Case No. 98 of 2023 (G.R. No. 1560 of 2023)
lodged under Sections 302/34 of the I.P.C. read with Section 27
of the Arms Act.

3. As per the prosecution case, the F.I.R. has been
lodged against 3 named accused persons. In the F.I.R., the
allegation against the petitioner is to kill the informant's father
by gun shot. In the morning of 18.04.2023, the informant has
disclosed that he has seen the pistol at the hand of present

petitioner when he was fleeing away just after killing the father of the informant.

4. Learned counsel for the petitioner submits that case diary has been called for and from the case diary, *sanha* was lodged on 18.04.2023 at 6:30 AM being *Sanha* No. 650 of 2023, but the name of any of the accused has not been disclosed. He submits that seizure report and inquest report were prepared at 6:45 AM and 7 AM respectively, but F.I.R. has been lodged at 10:30 AM, thereafter the investigation has been started.

5. Counsel for the petitioner submits that as per the F.I.R., the occurrence caused at 4 AM whereas the F.I.R. has been lodged at 10:30 AM meaning thereby there is gap of about 6 ½ hours. During the said period the informant has developed the case and disclosed the name of the petitioner.

6. Counsel submits that there is no criminal antecedent of the petitioner and he is in custody since 19.04.2023. In this view of the matter, there is strong discrepancy in the naming of accused persons, therefore, it may be treated as fit case to grant bail.

7. Learned counsel for the informant vehemently opposes the prayer for bail and submits that in the *fardbeyan* and in the re-statement, consistent disclosure has been made by the petitioner that commission has been made by the petitioner

and he has narrated the same version so far as the non-disclosure of name in the *sanha* in paragraph-3, it is mere a technical matter and on the point of technicalities, the accused against whom there is specific allegation may not be released on bail.

8. Learned A.P.P. for the State also opposes the prayer for bail.

9. Upon going through the case diary, it transpires to this Court that in the 1st paragraph of the case diary, it has been categorically stated by the Investigating Officer that the basis of this case is the application which he has received for the first time, but it is technically not explained by him in paragraph-3 of the case diary. Though he has make entry of the same in Dainiki *Sanha* No. 650 of 2023 at 6:30 AM.

10. From the content of F.I.R. and upon going through the allegations particularly, the statement of the petitioner in paragraph-17 of the case diary, this Court is not inclined to grant bail to the petitioner. Therefore, the bail petition of the petitioner is hereby rejected.

(Dr. Anshuman, J.)

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