

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50979 of 2022

Arising Out of PS. Case No.-190 Year-2019 Thana- HUSSAINGANJ District- Siwan

ANWAR ALAM S/O VASIL MIYAN Resident of village- Piyaaur, P.O.-
Gayghat, Hasanpura, P.S.- Hussainganj (M.H. Nagar), District- Siwan 841231

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Y.V.Giri, Sr. Advocate Mr.Shrishti Singh, Advocate Mr.Pranay Kumar, Advocate
For the Informant	:	Mr. Bijay Prakash Singh, Advocate
For the Opposite Party/s	:	Mr.Anuj Kumar Shrivastava, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

6 23-02-2023 Heard learned senior counsel appearing on behalf of
the petitioner and learned APP appearing on behalf of the State
as well as learned counsel for the Informant.

Let the defect(s), if any, be removed within a period
of four weeks from today.

The petitioner seeks bail in connection with
Hussainganj (M.H/ Nagar) P.S. Case No. 190 of 2019 registered
for the offence under Sections 147, 302, 506 of the Indian Penal
Code, Section 27 of the Arms Act and Sections 3/4 of the
Explosive Substances Act.

The accused/petitioner is named in the F.I.R. and is in
custody since 25.05.2022.



The allegation against the petitioner is to commit murder of brother of the informant, along with other co-accused persons, by causing fire arm injury due to previous enmities arises out of local dispute and differences.

Learned senior counsel appearing on behalf of the petitioner submitted that petitioner has falsely been implicated in the present case for the reason that at the time of occurrence he was present in his PDS Shop. In this connection, Para-172 of the case diary was pointed, where a direction was given by supervising authority to the I.O. of this case to investigate this case on this point and also to collect oral evidence from the purchaser and persons who were present at the shop of petitioner at the time of occurrence. It is submitted that it is highly improbable to commit offence along with main co-accused, Abre Alam, for the reason that petitioner is in litigating terms with said co-accused. It is submitted that the case of four (4) accused, namely, Abre Alam, Anwar Alam, Kaushar Saeen and Faruque Miya were transferred from District-Siwan to Patna vide Transfer Petition No. 18 of 2022 as ordered by the Hon'ble Supreme Court vide order dated 24.01.2023 but the case of petitioner still pending in District-Siwan. It is further pointed that in Para-176 of the case diary, where statement of one



Nasreen Khatun is available refering the statement of Afroz Ahmad given to a local news channels stating thereof that the murder of his brother was committed by Abre Alam, Faruque and Kaushar Saeen and not by this petitioner, C.D. of said conversation is also available on record. It is also submitted that statement of independent witnesses, who were purchaser and present at the shop of the petitioner at the time of occurrence, while recording their statement in Para 12, 13 and 14 of the supplementary case diary, it can be safely gathered that petitioner was present at his PDS shop and was dealing with his routine/daily business activities and was not present at the place of occurrence, suggesting false implication. It is further submitted that in last ten (10) months, not a single prosecution witnesses was examined and such trail is not likely to conclude in near future. It is also submitted that petitioner found involved in four (4) criminal cases, where in one case i.e. Hussainganj (M.H. Nagar) P.S. Case No. 145 of 2014, final form has been submitted against this petitioner, whereas in the rest of three (3) cases as mentioned in Para-3 of the main bail petition, he is on bail, where offence alleged appears very trivial in nature. While concluding the argument, it is submitted that informant is not the eye witness of the occurrence and also the witnesses who



were examined, during the course of investigation, whose statement are recorded in Para 153, 154 and 155 of the case diary also not appears the eye witness of the occurrence and as such implication of petitioner in the present case is merely on the basis of suspicion and due to oblique motive. Moreover, investigation of this case is complete, for which, charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP duly assisted by learned counsel for the informant, while opposing the prayer of bail submitted that the allegation against this petitioner is same as available against co-accused, Abre Alam, as per face of FIR, which also appears in full corroboration with post-mortem report, considering the same, the bail of co-accused, Abre Alam, has been rejected by one of the learned Co-ordinate Bench of this Court through Cr. Misc. No. 15410 of 2022 vide order dated 13.04.2022. It is submitted that petitioner filed an application for discharge, which is pending before the learned Trial Court and he himself responsible for delaying the trial.

In view of the facts and circumstances as mentioned above, as nature of injuries found while conducting post-mortem of the deceased is in full corroboration with manner of



firing as alleged through FIR, where with similar allegation, the prayer of bail of co-accused has already been rejected by one of the learned Co-ordinate Bench of this Court, this Court is not inclined to grant privilege of bail to the petitioner, at present.

Accordingly, the prayer for bail of the petitioner is rejected herewith.

The learned Trial Court is directed to conclude the trial, preferably, within a period of 06 (Six) months from the date of receipt of this order, by taking this matter on board, on day-to-day basis, if required. Failing which the petitioner may renew his prayer of bail, if so advised.

The Superintendent of Police, Siwan, is directed to produce the charge-sheeted witnesses, as and when directed by the learned Trial Court, so as to conclude the trial within aforesaid time period, as directed above.

(Chandra Shekhar Jha, J)

R.S.Sen/-

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