

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55572 of 2023

Arising Out of PS. Case No.-405 Year-2021 Thana- BASANTPUR District- Siwan

RAHIMUDDIN KHAN @ RAHMUDIN KHAN S/O LATE HAJI HAFIZ
KHAN R/O VILLAGE- KHAWASPUR, PS. LAKARI NABIGANJ O.P.
(BASANTPUR), DIST. SIWAN

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Y.C. Verma, Sr. Advocate
For the Informant	:	Mr. Raghav Prasad, Advocate
For the Opposite Party/s	:	Mr. Mohammad Sufyan, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

- 3 22-09-2023 1. Heard learned senior counsel for the petitioner, learned counsel for the Informant and learned APP for the State.
2. Petitioner seeks regular bail in connection with Basantpur P.S. Case No.405 of 2021 dated 17.09.2021 registered for the offence/s punishable under Section/s 302, 120B/34 of the Indian Penal Code and Section 27 of the Arms Act.
3. This is second attempt of the petitioner for the relief of regular bail after the petitioner's earlier attempt for the said relief was rejected by this Court vide order dated 13.02.2023 passed in Cr. Misc. No.21558 of 2022 along with in other analogous cases preferred by this petitioner.
4. It is submitted by the learned senior counsel



for the petitioner that there is no direct evidence against the petitioner, as per FIR the informant was not the eye witness of the commission of the alleged occurrence and she simply raised suspicion against the petitioner and altogether eleven accused persons including the petitioner were named by her merely on the basis of suspicion, as per allegation the victim, who happens to be husband of the informant, was taken from his house by co-accused Altamash Khan but at that time petitioner was not present with the said co-accused and in respect of further allegation as to threatening having been given to the deceased, the petitioner was not alleged to be involved in that threatening and he is simply stated to be a member of the alleged conspiracy. Further submission is that the FIR of the alleged occurrence was lodged 24 hours after the commission of the alleged occurrence without any explanation of the said delay. Learned senior counsel has placed reliance upon the judgment of Hon'ble Apex Court passed in the case of *Mahdoom Bava V. Central Bureau of Investigation reported in 2023 SCC OnLine SC 299*. Further submission is that the petitioner has been languishing in jail since 18.09.2021.

5. Learned APP appearing for the State as well as learned counsel appearing for the Informant vehemently



opposed the bail prayer of the petitioner and it is submitted by informant's counsel that in the present matter the petitioner is named in the FIR and prior to institution of FIR of present matter Basantpur P.S. Case No.257 of 2017 was lodged under Sections 302, 436, 449, 450, 458, 460 and 120(B) of the Indian Penal Code, Sections 25(1-b)a, 26, 27 and 35 of the Arms Act and Sections 3 and 4 of Explosive Substance Act in that case the petitioner was one of the charge sheeted accused and both the cases relate to the murder of two full brothers. Further submission is that the deceased namely Julfikar Ali Bhutto of the present matter lodged Basantpur P.S. Case No.10 of 2018 for the offences punishable under Sections 384, 504 and 120(B) of I.P.C. in which the petitioner was also an accused and he and other accused persons of that case threatened the deceased to withdraw the said case. It has been further submitted by learned counsel for the informant that the petitioner is a notorious criminal and he is accused in Nine criminal cases besides the present matter and the trial has started and two prosecution witnesses have been examined and in actual the petitioner was the gang leader of the criminals named in the FIR and after the institution of the FIR, the petitioner and other co-accused persons are giving continuous threatening to the family



members of the informant and other witnesses.

6. Considering the seriousness of the allegation appearing against this petitioner pointed out by learned counsel for the informant and mainly taking into account the several criminal antecedents of the petitioner detailed in the counter affidavit and informant’s apprehension as discussed above, in my opinion it will not be proper to enlarge the petitioner on bail at this stage. Accordingly, his bail prayer is again rejected.

(Shailendra Singh, J)

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