

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52417 of 2022

Arising Out of PS. Case No.-159 Year-2022 Thana- DAUDPUR District- Saran

Abhishek Mishra, S/O Kamal Dev Mishra, Resident of Village- Rampur
Binda lal, P.S.- Ekma, District- Saran (Bihar)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Manoj Kumar, Advocate
For the Opposite Party/s	:	Mr. Mritunjay Kumar Nirala, APP
For the Informant	:	Mr. Nawal Kishore Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 15-02-2023 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Manoj Kumar, learned counsel appearing on behalf of the petitioner, Mr. Nawal Kishore Singh, learned counsel for the informant and the learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Daudpur P.S. Case No. 159 of 2022 registered for the offences punishable under Section 302/34 of the Indian Penal Code and Section 27 of the Arms Act.

The prosecution case, based on a written report alleging therein that on 01.06.2022, while the informant son was sleeping after taking dinner, in the meantime, one person called on the mobile of the informant and asked for his son, thereupon, the informant went to see his son and found that he was not



present on his cot. In the next morning, at about 05:00 AM, she learned that her son was shot dead and the dead body is lying at Pilui, Pokhara. It is asserted by the informant that some unknown persons out of enmity killed her son.

Learned counsel appearing on behalf of the petitioner submits that from the FIR it is evident that the same has been instituted against unknown persons and not even a suspicion has been raised against anyone. However, in the further statement, the informant stated that on account of some enmity, Manoranjan Singh, Pawan Kumar Singh, Pankaj Kumar Singh and Sudish Kumar Singh by hatching a conspiracy have killed her son. On the basis of the aforesaid fardbeyan, later on co-accused Pawan Kumar Singh, was apprehended and his confession was recorded by the police, wherein, he has stated that due to some lending of money on account of illicit trafficking of wine, all the accused persons named in paragraph no. 52 of the case diary have killed the deceased. From reading of the confessional statement of Pawan Kumar Singh, it appears that the petitioner was not present at the place of occurrence, however, it transpired that the weapon which was used for the crime is said to be of the petitioner. It is next submitted that the petitioner is a Chairman of PACS of Rampur Bindalal



Panchayat, and on being political connection, he has been made accused in various cases, the particulars of which has been mentioned in paragraph no. 3 of the bail application. He next submits that save and except the confessional statement of Pawan Kumar Singh, there is no material suggesting the complicity of the petitioner and, moreover, there is no eyewitness to the alleged occurrence and the entire case revolves around the suspicion. He next submits that earlier vide order dated 21.12.2022, provisional bail was granted to the petitioner for appearing in 3rd Graduate Level Combined Competitive (P.T.) Examination - 2022 and thereafter, the petitioner, suo moto, surrendered and in this regard an affidavit has been filed which is already on record. He lastly drawn the attention of this Court in paragraph no. 62 of the case diary, wherein the criminal antecedent of the petitioner has been mentioned as he is found involve in two cases and he is on bail in both the cases.

On the other hand, learned counsel for the informant vehemently opposes the bail application and submits that the petitioner is one of the conspirator and in the present crime, the arms of the petitioner was used, hence his complicity cannot be denied.



Learned APP for the State also opposes the bail application.

Regard being had to the submissions made on behalf of the parties and considering the fact that the entire case is based on the suspicion and the name of the petitioner transpired on the confessional statement of co-accused Pawan Kumar Singh, which statement also not suggests the presence of the petitioner at the place of occurrence and he is in custody since 01.07.2022 and the investigation of the crime is complete, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Smt. Gitika Tripathi Judicial Magistrate 1st Class, Saran at Chapra in connection with Daudpur P.S. Case No. 159 of 2022, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or



intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) The court below shall verify the criminal antecedent of the petitioner and in case, at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

shivank/-

U		T	
---	--	---	--

