

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56666 of 2022

Arising Out of PS. Case No.-346 Year-2022 Thana- BEGUSARAI TOWN District- Begusarai

Kundan Kumar S/O Sri Narayan Singh Resident of village- Mohamadpur,
Gautam P.S.- Nayagaon, District- Begusarai.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Krishna Pd. Singh, Sr. Adv.
For the Opposite Party/s	:	Mr. Amit Kumar Rakesh, APP.
For the Informant/s	:	Ms. Shashi Priya, Adv.
		Mr. Ritwaj Raman, Adv.

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

5 18-03-2023 Heard learned counsel for the petitioner, learned APP
for the State and learned counsel for the informant.

Petitioner seeks regular bail in connection with Begusarai Town P.S. Case No. 346 of 2022 registered for the offences punishable under Sections 302 and 120(B)/34 of the Indian Penal Code and Section 27 of Arms Act.

As per the prosecution, the informant alleged that on 11.06.2022 at about 9:30 P.M., her daughter was murdered by some unknown persons when her daughter was returning to home.

The main submissions advanced by petitioner's counsel are that the FIR was registered against unknown persons and the name of this petitioner surfaced in the



restatement of the informant and as per the prosecution's story, the petitioner allegedly captured some objectionable photographs of the sister of the victim but in this regard, no investigation was made and as per the prosecution, the petitioner's location was found near the place of occurrence and the said conclusion has been made mainly on the basis of investigation of CDR but in actual, the petitioner's house is situated near the place of occurrence, so the petitioner's location might be near the place of occurrence, which was quite natural. Further submission is that the co-accused Nisha Kumari has been granted bail by a co-ordinate Bench of this Court vide order dated 20.12.2022 passed in Cr. Misc. No. 57107/2022.

Learned APP appearing for the State as well as learned counsel appearing for the informant has opposed the bail prayer and submitted that as per the investigation made on the basis of CCTV cameras installed at the *Tanishq* showroom as well as nearby place of occurrence, the alleged incident of firing took place at 9:30 P.M. and at that time the petitioner's location was also found near the place of occurrence as per the scientific investigation made by police in connection with petitioner's phone's location and at the time of institution of the FIR, the mental condition of the informant was not good and she



recorded her Fardbeyan at 2:30 A.M. on the same day of the alleged occurrence and after recalling all the relevant facts, she revealed the name of this petitioner in her restatement during investigation, in actual there was love affair in between the victim's sister and this petitioner and the said fact has been revealed by the material witnesses and the petitioner taking advantage of the relationship, succeeded to get nude photographs of the sister of the victim and thereafter the victim slapped him and then the petitioner threatened to kill the victim and consequently he in furtherance of the conspiracy hatched up with co-accused, committed her murder. Further submission is that co-accused Nisha Kumari, has been granted bail mainly on the basis of two grounds, firstly, against her there is only suspicion and confessional statement and secondly, the said co-accused is a lady.

Learned counsel for the informant has placed reliance upon the judgment of the Hon'ble Apex Court passed in the case of Ishwarji Nagaji Mali v. State of Gujarat and Anr. in Cr. App. No. 70/2022 and referred the paragraphs 6 and 7 of this judgment in support of her submission.

Heard both the sides and perused the FIR and case diary of this case. Though, the FIR was registered against



unknown persons and the petitioner's name did not find place in the FIR but during investigation, the name of this petitioner surfaced in the restatement of the informant and as per the statements of the material witnesses, there was no good relation in between this petitioner and the victim on account of some objectionable photographs of the sister of the victim being captured by this petitioner and according to the said witnesses, the petitioner had threatened the victim on account of the said tense relation and as per the scientific investigation, the petitioner's location was found near the place of occurrence at the relevant time of commission of the alleged firing. Considering the seriousness of the occurrence, which relates to murder and the allegations appearing against this petitioner, I do not find petitioner's prayer to be fit for bail. Accordingly, his prayer for bail stands rejected.

(Shailendra Singh, J)

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