

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61717 of 2023

Arising Out of PS. Case No.-999 Year-2022 Thana- BIHTA District- Patna

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Pankaj Kumar S/O Harendra Rai R/O Village- Suarmarwa (MANER), P.S.
Maner, Dist. Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ghanshyam Tiwary, Advocate

For the Opposite Party/s : Mr. Binod Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 16-10-2023 Heard Mr. Ghanshyam Tiwary, learned counsel

appearing on behalf of the petitioner and the learned Additional

Public Prosecutor for the State.

2. The petitioner apprehends his arrest in connection
with Bihta P.S. Case No. 999 of 2022, registered for the offences
punishable under Sections 147, 148, 149, 307, 379, 120(B), 160,
216 and 302 of the Indian Penal Code and Section 27 of the
Arms act.

3. Allegedly, at Sone Diara near Kawariya Ghat firing
took place between two groups to assert supremacy over mining
of the mines and minerals. When the police personnels reached
at the place of occurrence, all of them fled away. Local
Chowkidar and villagers disclosed the name of all the FIR
named accused persons. It is lastly alleged that in the course of
firing, four persons were killed.



4. Learned counsel appearing on behalf of the petitioner submits that the petitioner is not named in the FIR, however, later on during the course of investigation, the name of the petitioner has surfaced on the confessional statement of one 'Sandhya Devi', hence the necessity of the present application. He next submits that there is no eyewitness to the alleged occurrence, but only on account of suspicion, the name of the petitioner has been implicated in this case, that too, on the basis of confession made before the police, which is hit by under Sections 25/26 of the Indian Evidence Act. He next submitted that other co-accused persons, who are even named in the FIR, they have been allowed the privilege of anticipatory bail by the learned co-ordinate Bench of this Court in Cr. Misc. No. 17246 of 2023 vide order dated 03.07.2023 and further in Cr. Misc. No. 24396 of 2023 and other analogous cases vide order dated 07.07.2023, the copies of which have been brought on record by way of Annexure – 2 series. He lastly submits that even during the course of investigation no incriminating material has come nor any recovery has been made from the whereabouts of the petitioner, showing his complicity in the present crime, however, only on account of one criminal antecedent, it appears that his name has been implicated in this case.

5. On the other hand, learned counsel for the State



opposed the pre-arrest bail application and submits that the petitioner is also found involved in the offence connected with the illegal mining activities and thus, his complicity cannot be denied.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that the petitioner is not named in the FIR and others having similar allegation have been allowed the privilege of anticipatory bail, thus the parity also demand similar treatment, let the petitioner above named be released on bail, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs.20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate – I, Danapur (Patna) in connection with Bihta P.S. Case No. 999 of 2022, subject to the conditions laid down in Section 438(2) Cr.P.C. with the further condition that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J)

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