

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64718 of 2022

Arising Out of PS. Case No.-224 Year-2021 Thana- DHANAHA District- West Champaran

Akash Kushwaha Son of Late Bhola Kushwaha R/v- Daunaha, Ward No. 8,
P.S.- Dhanha, District- West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr.Ramchandra Sahni, Advocate
For the Opposite Party/s :	Mr.Ajay Kumar Jha,APP
For the Informant :	Mr. Bimlesh Kumar Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 02-03-2023 Heard learned counsel for the petitioner and the
learned APP for the State.

Petitioner seeks regular bail in connection with
Dhanaha P.S. Case No. 224 of 2021 registered for the offences
punishable under Sections 302, 201, 120(B)/34 of the Indian
Penal Code and Section 27 of Arms Act.

As per the prosecution, the informant's son namely
Ranjit Kumar Kushwaha was shot dead by this petitioner and
co-accused persons.

The main submissions advanced by the learned
counsel for the petitioner are that as per the FIR no one
including the informant claimed to have seen the alleged
occurrence of murder and only on the basis of suspicion the



petitioner has been made accused and four co-accused persons namely, Chhote Bharti, Shivcharan Nishad, Jaichand Kushwaha and Guddu Gupta who are named in the FIR have been granted bail by different benches of this court vide orders passed in Cr. Misc. No. 28615 of 2022, Cr. Misc. No. 46756 of 2022, Cr. Misc. No. 45627 of 2022 and Cr. Misc. No. 46712 of 2022 respectively and the petitioner has been languishing in jail since 08.09.2022 and he was arrested by the police mainly on the basis of confessional statement of co-accused Jaichand Kushwaha.

Learned counsel for the informant has vehemently opposed the bail prayer and submitted that as per the allegation the petitioner's case does not come to the same footing with the co-accused persons who are on bail as during the investigation, from the statements of the co-accused persons it is the petitioner who hired the co-accused persons belonging to other State to kill the deceased and in the FIR there is a specific allegation against the petitioner and he has criminal antecedent and after lodging the present case, from the possession of the petitioner fire arms were also recovered for which an other P.S. Case was lodged. It is further submitted that the prayer of two co-accused persons for regular bail has been rejected by a co-ordinate bench



of this court vide order passed in Cr. Misc. No. 50065 of 2022.

Heard both the sides. As per the FIR, the informant has claimed to be a witness of a criminal case lodged by one Pitambar Thakur in which the petitioner is an accused as per informant's counsel and as per the allegation the petitioner always threatened the informant and his son and finally as per allegation the informant's son was killed in furtherance of the alleged threatening.

In view of the nature of allegation mentioned in the FIR, the petitioner's case does not appear to be similar to the co-accused persons who are on bail and he appears to be the main accused, in my opinion it is not a fit case for bail to the petitioner, accordingly, his bail prayer stands rejected.

The petitioner may renew his bail prayer after examination of private prosecution witnesses in his trial, if in the next one year the said witnesses of the prosecution are not produced and examined then the petitioner will also have liberty to renew his bail prayer.

(Shailendra Singh, J)

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