

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77570 of 2023

Arising Out of PS. Case No.-154 Year-2023 Thana- KHAGARIA District- Khagaria

SHIV KHUSH KUMAR @ SHIV KHUSH @ NITISH KUMAR Son of Late
Shyam Sundar Rai R/o vill - Rupanwaz, P.S. - Bachhwara, Distt. - Begusarai

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Ms. Vaishnavi Singh
		Mr. Ajay Kumar Thakur
		Mr. Ritwik Thakur
For the Opposite Party/s :		Mr. Amitesh Kumar

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 22-12-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner seeks bail in connection with
Khagaria P.S. Case No. 154 of 2023 registered for the offences
punishable under Sections 302 and 201/34 of the IPC.

3. As per prosecution case, the Chowkidar got
information that a dead body of a youth was lying near to
Baluahi bus stand. He gave information to the S.H.O. and
reached near the dead body and from the jeans pocket of the
dead body a debit card of Bank of India was seized. On looking
closely to the dead body, a deep black mark was seen on his
neck and blood was flowing from his left ear and FIR has been
lodged against unknown.



4. Learned counsel for the petitioner submits that petitioner is not named in the FIR and his name has been transpired in the present case upon the confessional statement of co-accused Rana Rai. Except confessional statement of co-accused Rana Rai, there is nothing on record to demonstrate the complicity of petitioner with the alleged occurrence. He further submits that during the course of investigation, petitioner was found to be one of the associates of the deceased so he has falsely been roped in the present case. Learned counsel for the petitioner submits that petitioner is in custody since 03.06.2023 and bears criminal antecedent of three cases in which he is on bail in two cases and after being apprehended in the present case, petitioner has been remanded in the third case i.e. Sahebpur Kamal P.S. Case No. 46 of 2023. Learned counsel orally submits that charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence. He further submits that co-accused, Rana Ray, upon whose confessional statement petitioner's name has been surfaced, has already been granted bail by the co-ordinate Bench of this Court vide Cr. Misc. No. 46621 of 2023 on the condition of framing of charge. Learned counsel for the petitioner submits that the charges have already been framed and the co-accused



Rana Rai has already been released and the case of present petitioner stands on better footing as petitioner's name has been surfaced upon the confessional statement of co-accused. He further submits that petitioner is quite innocent and has committed no offence as alleged in the FIR.

5. The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner.

6. Considering the facts and circumstances of the case, period of custody, co-accused has already been granted bail, argument advanced on behalf of both sides and also taking into consideration the material available on record, let the petitioner above named be released on bail, on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Khagaria in connection with Khagaria P.S. Case No. 154 of 2023, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for



cancellation of bail by the learned Trial court itself.

(iii) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Alok Kumar Pandey, J)

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