

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19451 of 2024

Arising Out of PS. Case No.-771 Year-2021 Thana- BANKA District- Banka

Kundan Kumar, son of Kailu Chaudhary Village- Maharana Bandh P.S.-
Bounsi Dist- Banka

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sudhir Kumar Mishra, Advocate

For the Opposite Party/s : Mr. Kalyan Shankar, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

4 23-08-2024 1. Heard learned counsel for the petitioner and the
learned APP for the State.

2. The petitioner apprehends his arrest in connection
with Banka P.S. Case No. 771 of 2021 (G.R. No. 2586 of 2021)
dated 19.09.2021 , registered for the offence(s) punishable under
Section(s) 302/34 of the Indian Penal Code.

3. Mr. Sudhir Kumar Mishra, learned counsel for the
petitioner submits that the petitioner has not committed any
offence as alleged in the FIR rather he has been falsely
implicated in this case due to suspicion and old enmity as
mentioned in the FIR and the informant himself stated in the
FIR that the petitioner has also been made accused earlier by the
family members of the informant and thus, the probability of
false implication due to old enmity cannot be ruled out. It is



further submitted that if one falls into a well then it is possible to sustain head injury and, also, two similarly situated co-accused persons namely, Sanju Devi and Ramfal Choudhary have been granted anticipatory bail by a co-ordinate bench of this court vide order dated 24.03.2023 passed in Cr. Misc. No. 248 of 2023.

4. Mr. Kalyan Shankar, learned APP appearing for the State has opposed the bail prayer.

5. Heard both the sides and perused the FIR, case diary and order impugned. Though, the petitioner as well as other co-accused persons are named in the FIR but the informant does not appear to be an eye-witness of the alleged occurrence and he raised suspicion only, against the accused including the petitioner and during the course of hearing, the case diary has been handed over to the learned APP for assisting this court, who has only pointed out the enmity running between the petitioner and the victim's mother but has not shown any direct evidence to show the petitioner's involvement in the alleged crime except the said enmity and head injury to the victim (deceased) which has been refuted by the learned counsel for the petitioner by saying that if one fell into the well then it is possible to have sustained head injury by him and



further two similarly situated co-accused persons namely, Sanju Devi and Ramfal Choudhary have been granted anticipatory bail by a co-ordinate bench of this Court vide order dated 24.03.2023 passed in Cr. Misc. No. 248 of 2023 and there is no material to distinguish the case of this petitioner from that of the said co-accused in respect of his bail prayer and further the prosecution has not shown any requirement for police interrogation from the petitioner, so considering these facts, in my opinion, it is a fit case for anticipatory bail to the petitioner. Accordingly, let the petitioner named-above, in the event of his arrest/surrender before the learned court below within a period of six weeks from today, be released on anticipatory bail in connection with Banka P.S. Case No. 771 of 2021 (G.R. No. 2586 of 2021) on furnishing bail bond of Rs.10,000/-(Ten Thousand) with two sureties of the like amount each to the satisfaction of the Court concerned, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Shailendra Singh, J)

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