

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26974 of 2024

Arising Out of PS. Case No.-377 Year-2023 Thana- FALKA District- Katihar

Md. Sanowar @ Babul, S/o Md. Wajid, R/o- Govindpur, P.S.- Falka, District- Katihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 27703 of 2024

Arising Out of PS. Case No.-377 Year-2023 Thana- FALKA District- Katihar

Md. Arshad, Son of Md. Moinuddin Shakin @ Moim, R/o Village- Baisi (Jahangirpur) PS- Rangra District- Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 26974 of 2024)

For the Petitioner/s : Mr. Sanjeev Kumar Singh, Advocate
Ms. Neha Rani, Advocate

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

(In CRIMINAL MISCELLANEOUS No. 27703 of 2024)

For the Petitioner/s : Mr. Pawan Kumar, Advocate

For the Opposite Party/s : Mr. Bharat Bhushan, APP

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

2 19-04-2024

1. Heard learned counsel for the parties.

2. The petitioners have preferred this application for grant of regular bail in connection with Falka P.S. Case no. 377 of 2023 registered under sections 307 and 34 of the Indian Penal Code and sections 25(1-B)(a), 26, 27 and 35 of the Arms Act to which section 302 of the Indian Penal Code was added subsequently.

3. As per the prosecution case, the informant states



that two accused persons came on a motorcycle and were talking to her husband. After some time, one of them took out a *katta* and shot her husband as a result of which he fell down and subsequently died. One of the accused namely Prince Kumar was caught and arms and ammunition were recovered from his possession while another accused namely Vinay Kumar escaped. The other accused was also caught soon thereafter and a *katta* and two live cartridges were recovered from his possession.

4. Learned counsel for the petitioner Md. Sanowar @ Babul submits that the petitioner is not named in the FIR. He has been falsely implicated in the case in course of investigation when his name was alleged to be taken by the co-accused. He is neither said to be the assailant nor any incriminating article has been recovered from his possession. The allegation against him is of being a conspirator in planning and committing the murder. He is in custody since 20.11.2023 and has no criminal antecedent.

5. Learned counsel appearing for the petitioner Md. Arshad submits that he is also not named in the FIR. Referring to the order of the learned trial Court it is submitted that no incriminating article has been recovered from the possession of this petitioner. His name also transpired in the statement of co-accused made before police and the allegation against him is of



having acted as a liner in commission of the murder. The petitioner has no criminal antecedent and is in custody since 17.12.2023.

6. The application for bail is opposed by learned APP for the State.

7. Having heard learned counsel for the parties and taking into consideration that none of the two petitioners herein are named in the FIR, no incriminating article having been recovered from their possession, both their names having transpired in the confessional statement of co-accused made before police in which the allegation against them is of conspiracy together with the petitioners having remained in custody since 20.11.2023 and 17.12.2023 respectively, both the petitioners are directed to be enlarged on bail in connection with Falka P.S. Case no. 377 of 2023, on each of them furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate- Ist Class, Katihar.

(Partha Sarthy, J)

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