

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41021 of 2024

Arising Out of PS. Case No.-653 Year-2023 Thana- KHAGARIA District- Khagaria

Md. Eliyash @ Haliya @ Eliya S/o Md. Nasim Udeen @ Amin, R/o ward no. 6, Mehaurhi, P.S. - Muffasil, Distt.- Khagaria.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Aditya Vikram, Advocate
For the Opposite Party : Mr. Satyendra Prasad, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 20-07-2024 Heard Mr. Aditya Vikram, the learned counsel for the petitioner and Mr. Satyendra Prasad, the learned Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Muffasil Khagaria PS Case No. 653 of 2023, FIR dated 01.07.2023, registered for the offences punishable under Sections 341, 323 and 307 read with Section 34 of the Indian Penal Code and under Section 25(1-b)a and 27 of the Arms Act.

3. According to the prosecution case, after receiving secret information regarding firing made on one Amaniwala at Mehaurhi for spreading terror, the police reached at the alleged place and after investigation recovered two live cartridges. It is further alleged that after making secret raids, the involvement of



other accused persons were confirmed and a motorcycle was also recovered in the process.

4. Learned counsel for the petitioner submits that petitioner has clean antecedent and he has falsely been implicated in the present case. He further submits that although the petitioner is named in the FIR, but upon perusal of the FIR, it appears that there is no specific allegation of any assault or overt act attributed against the petitioner. He further submits that informant is not the eyewitness of the alleged occurrence and on the basis of information received from local villagers, the present FIR has been instituted. Apart from that, it appears that one motorcycle has been recovered from the house of the co-accused person namely, Sunny Kumar and no arms have been recovered from the possession of the petitioner and except suspicion no other cogent material has come during investigation which suggests the involvement of the petitioner in the present occurrence. He lastly submits that the co-accused person namely, Jafar Ali @ Md. Jafar Ali @ Jafar has been granted the privilege of anticipatory bail by this Court vide order dated 31.01.2024, passed in Cr. Misc. No. 1920 of 2024.

5. The learned Additional Public Prosecutor for the State on the other hand has vehemently opposed the prayer for



bail of the petitioner.

6. Considering the aforesaid facts and circumstances and mainly the facts that petitioner has clean antecedent, there is no specific allegation of any assault or overt act attributed against the petitioner and a co-accused person has been granted the privilege of anticipatory bail, let the petitioner, above-named, in the event of his arrest or surrender before the learned trial Court, within a period of four weeks from the date of receipt of the order, be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Khagaria, where the case is pending in connection with **Muffasil Khagaria PS Case No. 653 of 2023**, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. and also the following conditions:

(i). Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the learned trial Court and shall remain physically present as directed by the learned trial Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the learned trial Court.

(ii). 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.

(iii). And further condition that the learned trial Court shall verify the criminal antecedent of the petitioner and in case, at any stage, it is found that the petitioner has concealed his criminal antecedent, the learned trial Court shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

Shahnawaz/-

U		T	
---	--	---	--

