

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42770 of 2024

Arising Out of PS. Case No.-200 Year-2021 Thana- KOCHADHAMAN District- Kishanganj

Toshik Alam S/o Md. Badruddin R/o vill - Sahapur, Uttar Sitapur, P.S. -
Gualpokhar, Distt. - Uttar Dinajpur, W.B

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Radha Mohan Singh, Advocate

For the Opposite Party/s : Mrs. Rita Verma, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 23-08-2024 Heard Mr. Radha Mohan Singh, learned Advocate

appearing on behalf of the petitioner and Mrs. Rita Verma,

learned Additional Public Prosecutor for the State.

2. The petitioner apprehends his arrest in connection
with Kochadhaman P.S. Case No.200 of 2001, registered for the
offences punishable under Sections 393, 399, 402, 413 and 414
of the Indian Penal Code.

3. The police on a tip of assemblage of miscreants
raided the place of occurrence, however, noticing the police
party, two of the persons riding on another motorcycle
succeeded in fleeing away whereas, three persons were
apprehended from the place of occurrence. The apprehended
persons namely Amar Gwala, Chandan Gwala and Ratik Gwala
disclosed the name of the petitioner and one Aajoe Rai as his



accomplice. Certain incriminating materials have also been recovered from the possession of the apprehended persons.

4. Learned counsel appearing on behalf of the petitioner contended that save and except the disclosure made by co-accused Amar Gwala, there is no material suggesting the complicity of the petitioner in this case that apart the disclosure made before the police is hit by Section 26 of the Indian Evidence Act, 1872. It is next contended that during the course of investigation the whereabouts of one Aajoe Rai, which has been disclosed by the co-accused Amar Gwala, his whereabouts has never been found and as such even the disclosure of the co-accused Amar Gwala is concerned, that appears to be false and concocted. The petitioner is the resident of Uttar Dinajpur, West Bengal, and his presence at the place of occurrence in Kishanganj also found doubtful. It is lastly contended that the petitioner is a man of fair antecedent.

5. On the other hand, learned Advocate for the State vehemently opposed the bail application and submits that the apprehended person disclosed the name of the petitioner as one of the accomplice that he succeeded in fleeing away along with Aajoe Rai on a motorcycle. This fact has also been corroborated by the informant, who disclosed that there were two persons



who succeeded in fleeing away on the motorcycle. It is further contended that incriminating materials have been recovered from the possession of apprehended person besides knife and certain iron tools.

6. Regard being had to the submissions made on behalf of the parties and considering the materials available on record, this Court is not persuaded to allow the petitioner an anticipatory bail. However, taking note of the fact that the entire case is based on confessional statement and there is no other cogent material, this Court direct the petitioner to surrender before the court below preferably within a period of four weeks. On surrender of the petitioner, the court below shall take into consideration the prayer of the petitioner for regular bail in light of the fact that save and except the confessional statement, there is no material coupled with his fair antecedent.

7. The anticipatory bail application stands dismissed with the aforesaid observations.

(Harish Kumar, J)

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