

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62282 of 2023

Arising Out of PS. Case No.-33 Year-2023 Thana- HUSSAINGANJ District- Siwan

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Jamal Ahmed @ Dablu Mian Son Of Shabir Ahmed Resident of Village -
Jalalpur, Hasanpura, P.S. - Hussainganj (M.H. Nagar), District - Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Y.C. Verma, Sr. Adv. Mr. Rizwanal Jama Khan, Adv.
For the State	:	Mr. Abhay Kumar Roy, APP
For the Informant	:	Mr. Prabhakar Singh, Adv.

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**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL ORDER

6 12-03-2024 Heard learned counsel for the petitioner and

learned APP for the State as also counsel for the Informant.

Perused the case diary.

2. The petitioner seeks bail in connection with

Hussainganj (M.H. Nagar) P.S. Case No. 33 of 2023

instituted for the offences under Sections 302/34 of the

Indian Penal Code and Section 27 of the Arms Act.

3. The prosecution story, in short, is that the

husband of the Informant had set out for Hasanpura for

attending a feast. At about 10.39 PM, she received

information that some unknown persons shot fire on her



husband and has become injured. Thereafter, she went to Jalalpur where the husband of the Informant was lying down. With the help of villagers, her husband was brought to Sadar Hospital, Siwan and, later on, her husband was declared dead by the doctors.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence as alleged against him and has falsely been implicated in the present case. The petitioner is not named in the F.I.R. rather his name has surfaced in this case on the self-confessional statement of the petitioner himself. He further points out that the time of occurrence is of 10.40 PM on 25.02.2023 and the FIR has been lodged on 26.02.2023 at 10.30 PM which assumed importance in view of the fact that even in her further statement, the Informant has not named anybody still after the so-called confessional statement of the petitioner on 01.03.2023 and on 03.03.2023, she came up with the new version that she saw the petitioner around the time of occurrence which shows clear attempts of false implication of the petitioner. There is no eye-witness to the



occurrence and there is also no confession in this case rather it is a subsequent development. He has further stated that the third version of the Informant narrates a different story compared to the confession and thus both may not be relied upon. Further the statement of Parvez, who was with the deceased just prior to the occurrence, has also stated nothing about meeting with the petitioner prior to the occurrence. He has further pointed out that as per confession of the petitioner, he has fired thrice on the deceased but, the postmortem report shows that the deceased sustained only two gun-shot injuries thus, does not support the prosecution. The petitioner has one criminal antecedent as has been stated in paragraph no.3 of the present bail application. The petitioner is languishing in judicial custody since 20.04.2023.

5. Learned A.P.P. for the State and the Informant have vehemently opposed the prayer for grant of bail to the petitioner stating that the alleged pistol loaded with three live cartridges used in the occurrence was recovered from the bed of the petitioner and the Informant and witnesses



have supported the prosecution story. The postmortem report also reveals that the cause of death is due to hemorrhage and shock caused by fire-arm and, thus, the postmortem report also supports the prosecution. In view of the above, the petitioner does not deserve bail.

6. Learned counsel for the Informant has filed counter affidavit stating that the eye-witness Rafat Maqbook along with other witnesses have also given their respective statements but, the same has not been recorded and incorporated as part of investigation. Thereafter, having no alternative, they sent their written statement through post but, the same has not been incorporated as part of the investigation till date. It has also been stated that the Informant was also sent legal notice through her advocate on 26.06.2023 to the respondent police officials but, till today, no action was taken and, thereafter, Cr.W.J.C. No. 1617 of 2023 has been filed before this Court. The Informant has also filed supplementary counter affidavit stating therein that Jamal Ahmad @ Dablu and Eqbal Ahmad @ Bablu have committed murder of the husband of the



Informant but, even after recovery of arms for which M.H. Nagar P.S. Case No. 35 of 2023 has been instituted separately in which accused Eqbal Ahmad @ Bablu has been made as witness of the seizure list, instead of arresting him, Jamal Ahmad @ Dablu was arrested which shows the deliberate intention of the police officials. It has further been stated that the present petitioner has confessed before the police, admitted his guilt and disclosed about the weapon used in the crime which was recovered from his bed as per his statement and, as such, the statement of the accused petitioner made before the police is admissible in nature.

7. Having heard rival contention of both the parties and considering the entire facts and circumstances of the case, this Court finds that the petitioner in his confessional statement has confessed his guilt and the alleged pistol used in the occurrence was also recovered from the bed of the petitioner. The Informant and other witnesses have also supported the prosecution and the postmortem report also supports the alleged crime.

8. In that view of the matter, this Court is not



inclined to grant bail to the petitioner for the present.

9. Accordingly, the prayer for bail of the petitioner is hereby rejected with a direction to the trial court to expedite the trial and conclude the same expeditiously preferably within a period of nine months from today.

(Rudra Prakash Mishra, J)

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