

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62314 of 2024

Arising Out of PS. Case No.-53 Year-2021 Thana- BALUA BAZAR District- Supaul

Md. Sarfaraz Son of Md. Hasbul Resident of Village- Kushhar Arazi, Police Station- Balua Bazar, District-Supaul (father's name and address wrongly mentioned in FIR), Md. Sarfaraz, Son of Md. Jahangir, Resident of village- Narhowa, Bhavanipur, Ward No. 1, P.s.- Fulkaha, District - Araria

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Arun, Advocate

For the Opposite Party/s : Mr.Dilip Kumar No. 1, A.P.P.

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

3 18-10-2024 Learned counsel for the petitioner is permitted to make necessary correction in prayer portion of bail petition filed on behalf of the petitioner, during the course of the day.

2. Heard learned counsel for the petitioner and learned A.P.P. for the State.

3. The petitioner seeks bail in connection with S.T. No. 184/2024, arising out of Balua Bazar (Lalitgram O.P.) P.S. Case No. 53 of 2021 registered for the offences punishable under Sections 363, 364, 120B/34 of the Indian Penal Code later on Section 302, 201 of the Indian Penal Code is added.

4. As per prosecution case, petitioner and others came at the house of the informant and took away the informant's son to Ghurna Bazar to see Kartik Purnima Mela



but his son did not return upon which the informant started searching his son. It is further alleged that petitioner and others concertedly kidnapped the informant's son and later on committed his murder.

5. Learned counsel for the petitioner submits that from the perusal of FIR, it appears that F.I.R. was lodged on 23.11.2021 despite the fact that the occurrence took place on 20.11.2021. He further submits that no plausible explanation has been given by the informant regarding the said delay which questions the authenticity of the prosecution story. Petitioner is in custody since 24.01.2024 and bears criminal antecedent of one case in which he is on bail. Charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence. Petitioner is quite innocent and has committed no offence as alleged against him in F.I.R. Except suspicion, there is nothing on record to demonstrate the complicity of the present petitioner with the alleged occurrence. At best, it is a case of last seen of the deceased with the petitioner and there is no iota of evidence against the petitioner. No incriminating article has been recovered from the possession of the petitioner. Moreover, on similar and identical allegation, co-accused Md. Gufran @ Guddu has already been granted bail



by this Court vide Cr. Misc. No. 40656 of 2022 and on the principle of parity, the present petitioner also deserves bail.

6. The learned A.P.P. for the State opposes the prayer for bail of the petitioner.

7. Considering the facts and circumstances of the case, period of custody, co-accused has already been granted bail, charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence, argument advanced on behalf of both sides and also taking into consideration the material available on record, let the petitioner above named be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned A.D.J.-I, Supaul in connection with S.T. No. 184/2024, arising out of Balua Bazar (Lalitgram O.P.) P.S. Case No. 53 of 2021, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for



cancellation of bail by the learned Trial court itself.

(iii) 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.

(Alok Kumar Pandey, J)

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