

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69754 of 2023

Arising Out of PS. Case No.-71 Year-2023 Thana- POTHIIYA District- Kishanganj

Alam @ Md. Alam S/O Jharwa Munsii Vill Piyakuri, Ps- Pothia, Dist-
Kishanganj

... .. Petitioner/s

Versus

The State Of Bihar Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr.Bhola Prasad, Adv
For the Opposite Party/s :	Md. Mushtaque Alam, APP
	Mr. Sunil Kumar, Adv

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 7 05-07-2024 1. Heard learned counsel for the petitioner, learned A.P.P. for the State and learned appearing on behalf of the informant.
2. The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 302 and 34 of the Indian Penal Code.
3. Learned counsel for the petitioner submits that petitioner is a person with clean antecedent and is aged about 53 years and has been falsely implicated in the instant case.
4. The learned counsel for the petitioner submits that one Md. Saheb instituted Pothia P.S. Case No. 70 of 2023 dated 31-3-2023, alleging therein that on 30-3-2023 at 5:00 PM when he along with his mother had gone to his maternal grand-



mother's house, when at 11 PM he got an information that Maktab along with Rahi Akhtar, Muntajir and two unknown accused had forcibly administered poison to his sister Thofa Begam, accordingly he came to his house and saw his sister in an unconscious state and Maktab was kept in captivity by the villagers, rest of the accused had fled, next alleges that his younger sister Rumi disclosed that Rahi Akhtar had administered poison to Thofa while other accused persons were holding her, accordingly Thofa was brought for Pothia Hospital for treatment and thereafter she was referred to Islampur for better treatment.

5. It is next submitted that Thofa, prior to institution of Pothia P.S. Case No. 70 of 2023, had instituted Mahila P.S. Case No. 5 of 2022 dated 2-2-2022 against Md. Maktab and five other accused persons alleging that on pretext of marriage, Maktab established physical relations with her, it is further submitted that the present FIR, in which the petitioner is seeking anticipatory bail, was instituted on 31-3-2023 by Rahi Akhtar, who is an accused in Potiha PS Case No. 70 of 2023, alleging that the petitioner along with five named accused persons and 4-5 unknown accused abducted Md. Maktab and he was confined in the house of Irshad in the night where he was brutally



assaulted and was hanged to death.

6. The learned counsel next submits that the informant is not an eye to the occurrence. It is further submitted that during the course of investigation, it transpired that Maktab was caught at the place of occurrence, when he had gone to meet Thofa, where the villagers and the family members of Thofa pressurized him to marry, but Maktab called his brother, i.e., the informant, seeking his permission to marry Thofa, which was refused, despite Maktab informing that he was apprehended by the family members of the Thofa at her house. It is next submitted that Maktab was apprehended at the house of Thofa by Irshad and others on 30-3-2023 and on the said date, in the night he called his brother, i.e., informant, seeking his permission for marriage, it is submitted that the informant was aware that his brother was caught by the family members of Thofa on 30-3-2023 but then he did not make any endeavours to inform the police or to institute an FIR rather instituted the instant FIR on 31-3-2023, alleging that the accused persons including the petitioner killed his brother when he is not an eye-witness to the occurrence nor he had come to the place of occurrence after being informed by Maktab that he was apprehended. It is further submitted that the dead body of the



deceased was found in the house of Irshad, who is step-brother of Thofa and petitioner is not related to Thofa rather being a co-villager is distantly related. It is submitted that it absolutely does not stand to reason that as to why the petitioner would have participated in the occurrence when he is not related to Thofa or Irshad.

7. It is submitted at the cost of repetition that petitioner is aged about 53 years and has remained a person with clean antecedent and all of a sudden, came to be implicated in the instant case by the informant, who is not an eye-witness to the occurrence. It is next submitted that name of the petitioner transpired in the confessional statement of co-accused Golu in the police custody, which does not have any evidentiary value. It is next submitted that even from perusal of the statement of Golu, it would manifest that he has named the petitioner only for the reason that he is named in the FIR.

8. At this state, the learned counsel for the petitioner submits that petitioner will not abscond rather will cooperate in the investigation.

9. Learned A.P.P. for the State and learned counsel appearing on behalf of the informant oppose the prayer for anticipatory bail of the petitioner, but then are not in a position



to rebut the submission made by learned counsel for the petitioner that the informant is not an eye-witness to the occurrence and confessional statement in police custody does not have any evidentiary value and the petitioner all throughout has remained a person with clean antecedent.

10. Considering the submissions made by the learned counsel for the petitioner, the petitioner above-named, in the event of his arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Pothia P.S. Case No. 71 of 2023, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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