

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2341 of 2024

Arising Out of PS. Case No.-166 Year-2023 Thana- THawe District- Gopalganj

Sudama Shah Son of Late Badri Shah R/o vill - Gawndri, P.S. - Thawe, Distt.
- Gopalganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ranjeet Kumar Pandey, Adv.
For the Opposite Party/s	:	Mr. Chandra Sen Prasad Singh, APP
For the Informant	:	Mr. Vyas Kumar Mishra, Adv.

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

ORAL ORDER

5 21-06-2024 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

Thawe P.S. Case No. 166 of 2023 instituted for the

offences under Sections 324/302/34 of the Indian Penal

Code.

3. As per prosecution case, the accusation against

the petitioner is of being involved in committing murder of

the wife of the Informant.

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 only due to dirty village politics. The petitioner is not named in the F.I.R. as the F.I.R. has been instituted against unknown. There is no eye-witness to the alleged occurrence. The name of the petitioner has surfaced in this case during investigation. He further submits that there is a tampering in the F.I.R. as in the prosecution case, the word "Chaku" has been inserted by cutting the word "Goli" which has been done after going through the postmortem report. He further submits that the present F.I.R. has been instituted at 15.00 O'clock on 11.06.2023 whereas the postmortem was conducted at 9.00 AM on 11.06.2023 and, thus, the F.I.R. has been lodged after going through the postmortem report. He again submits that the petitioner has been arrested from his house on the disclosures made by the spy whereafter his confessional statement has been recorded by the police. Nothing incriminating has been recovered from the physical/conscious possession of the petitioner. There is no direct or specific allegation of any overt act against the petitioner rather the same is general and omnibus in nature.



The petitioner has no concern with the alleged occurrence. The petitioner has no criminal antecedent and is languishing in judicial custody since 14.06.2023 without any rhymes or reason. Charge-sheet has been submitted in this case.

5. On the other hand, learned A.P.P. for the State and the Informant have vehemently opposed the prayer for grant of bail to the petitioner. It has been submitted that during investigation, the name of the petitioner has surfaced in this case during investigation when the petitioner's mobile call details were matched and was found indulged in telephonic dialogue with the deceased Babita Devi on her mobile number and, thereafter, the petitioner was arrested and his confessional statement was recorded before the police in which the petitioner has confessed his love affair with the deceased and his involvement in the alleged occurrence. In the further statement, he has also stated that one another was also indulged in love affair with the deceased which gave ground to him to commit murder of the deceased. On the basis of the confessional statement, the knife used in the occurrence was also allegedly recovered



from bushes. The police has also recovered the mobile of the deceased from the house of the petitioner. The postmortem report also supports the prosecution case. The allegation alleged against the petitioner is serious in nature and, thus, he does not deserve bail.

6. Having heard rival contention of both the parties and considering the entire facts and circumstances of the case as also taking into account the period of custody of the petitioner and the petitioner having no criminal antecedent, let the petitioner, abovenamed, be released on bail, ***after framing of charge if not already framed***, on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with Thawe P.S. Case No. 166 of 2023, subject to the following conditions;

(i) One of the bailor(s) shall be the own/close family members of the petitioner.

(ii) The petitioner shall cooperate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed



by the Court and in the event of failure on two consecutive dates without sufficient reasons, his bail bond shall be liable to be cancelled by the court below.

(iii) If the petitioner tampers with the evidence or the witnesses of the case by intimidating/pressurizing the witnesses, during the investigation or trial, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(iv) If the petitioner is found indulged in any criminal activity or commission of any crime after being released on bail, the prosecution will be at liberty to file an appropriate application before the court below for cancellation of his bail.

(Rudra Prakash Mishra, J)

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