

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3518 of 2025

Arising Out of PS. Case No.-1285 Year-2023 Thana- KHAGARIA District- Khagaria

Rupesh Kumar Son of Bhikho Tanti Resident of Ward No. 19 Kamalpur, P.S.-
Khagaria, Distt.- Khagaria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Aditya Vikram, Adv.

For the Opposite Party/s : Mr. Choubey Jawahar, APP

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

ORAL ORDER

2 24-01-2025 Heard learned counsel for the petitioner and Mr.
Choubey Jawahar, learned A.P.P. for the State.

2. The petitioner apprehends his arrest in connection with Khagaria (Gangour) P.S. Case No. 1285 of 2023 registered for the offences punishable under Sections 25(1-B)(a)/26/35 of the Arms Act.

3. As per prosecution case, the police, during night patrolling, reached at the place of occurrence. On seeing the police party, three miscreants fled away from the place of occurrence leaving behind one motorcycle and two country-made guns out of which one gun was loaded with bullet, which were seized by the police.

4. Learned counsel for the petitioner submits that the



petitioner is innocent and has falsely been implicated in the present case. The petitioner is not named in the F.I.R. and his name has surfaced in this case on the basis of the confessional statement of the co-accused Major Tanti @ Mejar. The alleged motorcycle does not belong to the petitioner. The petitioner has also no concern with the alleged recovery of arms and ammunition. He further submits that nothing incriminating has been recovered from the conscious possession of the petitioner. There is no specific or direct allegation against the petitioner rather the same is general and omnibus in nature and the entire case is based on mere conjectures and surmises. The petitioner has one criminal antecedent as has been stated in paragraph no.3 of the present anticipatory bail application. There is a non-compliance of Section 103 of the B.N.S.S. which creates a serious doubt in the prosecution case.

5. Learned counsel for the petitioner further submits that the co-accused Major Tanti @ Mejar has been granted regular bail by this Court vide order dated 21.08.2024 passed in Cr. Misc. No. 57389 of 2024.

6. Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioner, stating that the offence alleged against the petitioner is serious in nature. The Informant in his



re-statement has supported the version made in the F.I.R. Different witnesses have also supported the prosecution case. From the impugned order, it appears that the alleged motorcycle belongs to the petitioner. The police has recovered one black colour motorcycle and two country made gun one of which was loaded with bullet from the place of occurrence. The petitioner has one criminal antecedent and, hence, he does not deserve anticipatory bail of this Court.

7. Considering the entire facts and circumstances of the case taking into account the gravity and nature of offence, this Court is not inclined to grant privilege of anticipatory bail to the petitioner.

8. Accordingly, the prayer for anticipatory bail of the petitioner, above named, is rejected. If the petitioner surrenders before the court below within a period of four weeks from today and prays for regular bail, the same would be considered by the court below in accordance with law without being prejudiced by the order of this Court.

(Rudra Prakash Mishra, J)

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