

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28380 of 2025

Arising Out of PS. Case No.-329 Year-2018 Thana- BRAHMPURA District- Muzaffarpur

Jiyauddin Khan @ Khanauf Khan S/o- Maulvi Alam Khan R/v- Jogauliya
Tola Gulab khan PS- Madhuban Dist-East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Y. C. Verma, Sr. Adv. Mr.Eashita Raj, Adv.
For the State	:	Ms.Nirmala Kumari, Adv.
For the Informant	:	Mr. Nafisuzoha, Adv.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

6 09-01-2026 Heard Mr. Y. C. Verma, learned Senior Advocate for the petitioner and learned Additional Public Prosecutor for the State. The informant is represented through Mr. Nafisuzoha, learned Advocate.

2. The petitioner apprehends his arrest in connection with Brahampura P.S. Case No. 329 of 2018, registered for the offences punishable under Sections 341, 307/34 of the Indian Penal Code and Section 27 of the Arms Act.

3. Allegedly, in the evening of the fateful day, while the informant along with his friend, Umar Khan had gone to Pathan Toli in connection with matrimonial alliance for his daughter and when they were returning, in the meanwhile, they heard the sound of firing from behind. Instantaneously, the



informant's friend, who was seated behind him, made screaming and said that someone has fired upon him. The informant saw that two unknown miscreants riding on a motorcycle fired thrice upon his friend. The injured was immediately taken to local Hospital and later on he was referred to SKMCH, Muzaffarpur.

4. Learned Senior Advocate for the petitioner referring to the FIR contended that admittedly the same has been instituted against the unknown miscreants and the informant claims to be an eye witness but he did not claim to identify any one, muchless the petitioner. No witness or any person at the place of occurrence had identified the actual assailant but surprisingly the injured later on named the petitioner as conspirator. The false implication of the petitioner is writ large for the simple reason that the petitioner's wife Gudia Khatun contested an election for the post of Zila Parishad in Ward No. 54, East Champaran against the wife of injured Umar Khatun. Since the injured had been getting such impression that his wife lost the election because the petitioner did not stop his wife from contesting the election, hence there was a long standing hostility between the parties. The implication of the name of the petitioner is nothing but a move to settle the personal grudge. Despite the case being registered



on 08.10.2018, the police took no steps against the petitioner for several years and it was only after a prolong delay that a requisition was filed before the Court and arrest of warrant was obtained against the petitioner on 28.01.2025. The police failed to take any steps for over six years as there was no material available on record. However, it appears that on political pressure and undue persuasion, the police obtained the warrant of arrest and thus the petitioner apprehending his arrest, approached before the competent court for grant of anticipatory bail. Learned Senior Advocate further contended that since the petitioner is actively engaged in politics having hostility from opponents which led to institution of some criminal cases and in such premise the petitioner is facing three criminal antecedent as has been disclosed in para-3 of the bail application. However, the petitioner is on bail in all the cases.

5. On the other hand, learned Advocate for the State and the learned Advocate for the informant vehemently opposed the bail application and submitted that the enmity is a sword which cuts both the sides. The injured has categorically stated before the police that in the incidence there appears to be complicity of the petitioner along with others, who were found nearby the place of occurrence. It is also contended that the



petitioner bears three criminal antecedent and for this reason alone he does not deserve the privilege of anticipatory bail; besides he is evading his arrest since long.

6. Having considered the submissions set forth by the learned Sr. Advocate/Advocates for the respective parties and taking note of the mandate of the law that the criminal antecedent of the petitioner cannot be the sole ground to deny the privilege of pre-arrest bail unless there is cogent material showing complicity of the person in the crime as also the fact that save and except the suspicion regarding complicity of the petitioner in the crime, as has been disclosed by the injured, whose statement was recorded after nine days of the occurrence, that too on account of previous enmity, there is no other materials collected during the course of investigation; besides the other facts that for the first time the police has filed requisition for warrant of arrest against the petitioner after a delay of six years and obtained the same on 28.01.2025, let the petitioner abovenamed be released on bail, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs.20,000/- (twenty thousand) with two sureties of the like amount each to the



satisfaction of the learned Principal District and Sessions Judge, Muzaffarpur in connection with Brahampura P.S. Case No. 329 of 2018, subject to the conditions laid down in Section 482(2) of the Bharatiya Nagrik Suraksha Sanhita, 2023, with the further condition that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J)

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