

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.32435 of 2016**

Arising Out of PS.Case No. -148 Year- 2016 Thana -KOTWALI District- PATNA

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1. Ram Niwas Kumar @ Chhotu Son of Sadhu Saran Singh, Resident of  
Village- Kurkuri, P.S- Kinjar, District- Arwal.

.... .... Petitioner/s

Versus

1. The State of Bihar

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Rajendra Narain, Sr. Advocate  
Mr. Ranjay Kumar Singh  
For the State : Mr. U.L. Verma  
For the Informant : Mr. Azeem

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**CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA**  
**ORAL ORDER**

3      27-09-2016      Heard learned Senior Counsel for the petitioner and learned  
counsel for the informant as well as Additional Public Prosecutor  
for the State.

The petitioner apprehends his arrest in connection with a  
case registered for the offences punishable under Sections  
302/201//34 of the Indian Penal Code.

Learned Senior Counsel for the petitioner submits that  
though the name of the petitioner has been indicated in the First  
Information Report as being one of the persons who was  
responsible for the death of the son of the informant, there is no  
cogent material on record so as to implicate the petitioner. It is  
submitted that the name of the present petitioner was taken by one



Vikash Pathak who has also been made an accused in connection with the present case. It is further submitted that the entire allegation is based on certain pieces of information collected by the informant after the occurrence and when the body was recovered. The First Information Report was registered on 24.03.2016 by the informant when admittedly the boy had gone missing from 19.03.2016 itself. No plausible explanation had been offered by her as to why there was no information given to the police between the said period. Thus, the delay, according to learned counsel for the petitioner also stand unexplained. It is further submitted that the petitioner is facing prosecution only on the extra judicial confession made before the police by some of the co-accused persons and, as such, a piece of evidence cannot be accepted in the eye of law.

Learned counsel for the informant has seriously contested the matter stating that all the persons who have been named in the First Information Report as accused persons, have, in their extra judicial confession made before the police, taken the name of the this petitioner and have stated that they were sitting together and drinking and had together beaten up the deceased and thereafter, thrown him into the drain. It was after the recovery of the body that the informant lodged the case and not before that. Learned

counsel for the informant submits that between 19.03.2016 and 24.03.2016, the informant was merely searching her son and his decomposed body was found in the drain. The post-mortem, however, could not reveal that the deceased had been beaten up as the inquest clearly indicated that it was in a highly decomposed state.

Diary in this case was called for earlier, which has, since been received.

Learned Additional Public Prosecutor for the State after perusal of the case diary submits that save and except the extra judicial confession made before the police, there is no further material on record so as to implicate the petitioner. Furthermore, two independent witnesses have stated that there was some dispute between co-accused Modi and one Gayanand Jha who had fought themselves as the glass of the Toyota Innova vehicle which was being driven by Modi had been damaged by Gayanand Jha and the said Modi was demanding money/ compensation for the same. However, these two independent witnesses have not stated that there was any dispute between Dipu (Deceased) or the present petitioner.

Considering the entire facts and circumstances, the allegations made, the extra judicial confession made before the

police and also that the independent witnesses have not taken the name of the present petitioner and that he has no criminal antecedent, let the petitioner abovenamed, in the event of his arrest / surrender within a period of four weeks from the date of receipt/production of a copy of this order, be enlarged on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Patna, in connection with Kotwali P.S. Case No. 148/2016, subject to the conditions as laid down under Section 438(2) of the Cr. P.C.

**(Anjana Mishra, J)**

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