

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.54006 of 2015

Arising Out of PS.Case No. -186 Year- 2015 Thana -MOTIHARI MUFASIL District-
EASTCHAMPARAN(MOTIHARI)

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BHARAT RAI SON OF KISHORE RAI RESIDENT OF VILLAGE -
BARHARWA, P.O. AND P.S. - MUFFASIL, DISTRICT - EAST
CHAMPARAN.

.... PETITIONER/S

VERSUS

THE STATE OF BIHAR

.... OPPOSITE PARTY/S

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Appearance :

For the Petitioner/s : Mr. Pravin Kumar, Adv.

For the Opposite Party/s : Mr. Ram Anurag Singh(App)

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

3 30-01-2016 Heard learned counsel for the petitioner, learned

Additional Public Prosecutor as well as learned counsel for the
informant.

Deceased Golu was taken away by the petitioner,
Santosh Kumar along with two unknown persons on
21.06.2015 at about 06:00 PM and since thereafter, he became
traceless. On the following day at about 12:00 noon while the
prosecution party were in search of Golu, were informed by the
police regarding his murder. Postmortem report does suggest
that deceased was done to death by means of sharp cutting
weapon.

Contention on behalf of petitioner is that
considering the inculpatory extra judicial confessional
statement of co-accused Santosh as well as he himself recorded
under para-47 as well as 55 of the case diary, it is evident that
petitioner is not an assailant and on account thereof, petitioner

should be granted bail.

The learned Additional Public Prosecutor as well as learned counsel for the informant opposes the same.

Perused the case diary. From perusal of the same, it is evident that those inculpatory extra judicial confessional statements apart from being inadmissible in the eye of law, could not be taken into consideration because of the fact that in their inculpatory extra judicial confessional statement both the accused have stated that they along with Golu, deceased took wine. Deceased was heavy poured. During course of postmortem no such event has been found and that rules out the disclosure made on behalf of the accused persons by way of inculpatory extra judicial confessional statement.

Considering the statement of the witnesses, it happens to be a case of last seen and taking into account the time so disclosed under postmortem report, the occurrence is being duly connected with the presence of all these accused. Prayer for bail is rejected.

(Aditya Kumar Trivedi, J.)

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