

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.51142 of 2017

Arising Out of PS.Case No. -29 Year- 2016 Thana -BHAGWANPUR District-
VAISHALI(HAJIPUR)

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1. Kailash Sah, son of Late Bhola Sah, resident of Village- Sahtha Nyamatpur, P.S.- Bhagwanpur, District- Vaishali.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bela Singh

For the Opposite Party/s : Mr. Md. Fahimuddin

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 08-01-2018

Heard the counsels for the parties.

The petitioner seeks bail in connection with Bhagwanpur P.S. Case No. 29/2016 dated 05.02.2016 instituted for the offences under Sections 364, 302 and 201/34 of the Indian Penal Code.

Though, the petitioner has been named in the F.I.R., but the story of the case appears to be rather queer. The informant has stated that while he along with his brother (deceased) was returning from the police station, he was intercepted by the accused persons, including the petitioner. They were protesting against the informant and the deceased of having lodged a case against them in the police station. The brother of the informant was thereafter taken away forcibly, but the informant could



anyhow save his life. The occurrence took place on 02.02.2016. After about a day, it was alleged by the informant that the Mukhiya of the Panchayat informed him that the dead body of his brother was lying on the railway tracks near Rajendra Nagar Railway Station. The informant claims to have identified the dead body of his brother.

Learned counsel for the petitioner has submitted that an absolutely false case has been filed by the informant. If the occurrence of taking away the brother of the informant had taken place on 02.02.2016, there was no reason for the informant to wait for the recovery of the dead body of his brother. He should have filed a case immediately thereafter. Not having done that, the prosecution case becomes doubtful. After the dead body was recovered also, there is an inordinate delay of about two days in registering the F.I.R. It has further been submitted that because of the death of the deceased on the railway tracks, an U.D. case was registered by the Station Master and information was sent to the Mukhiya of the Village on 03.02.2016 and only through the mouth of the aforesaid Mukhiya, the informant learnt about the death of his brother. Thereafter, the informant came to Patna and found the dead body of his brother on the railway tracks. The U.D. case referred to above seems to have been registered on 03.02.2016



itself.

Three of the named accused persons having similar allegation and under the similar circumstances, named by the informant, have been granted the privilege of anticipatory bail by different Benches of this Court. Co-accused persons, Shambhu Sah and Ganesh Sah, have been granted anticipatory bail vide order dated 11.08.2016 passed in Cr. Misc. No. 23860/2016, whereas co-accused, Baidyanath Sah, has been granted anticipatory bail on 20.01.2017 in Cr. Misc. No. 45090/2016.

The petitioner is in custody since 28.08.2017 and there is only one criminal case against him, apart from the present case, which has been lodged by the wife of the informant.

Considering the aforesaid facts, the petitioner above named is directed to be released on bail on his furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate III, Vaishali in connection with Bhagwanpur P.S. Case No. 29/2016.

(Ashutosh Kumar, J.)

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