

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6922 of 2020

Arising Out of PS. Case No.-547 Year-2018 Thana- BARAUNI District- Begusarai

MD. RIJWAN Son of Md. Hakim Resident of Village-Bakhatpur, P.S.-Birpur,
District-Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjay Sinha

For the Opposite Party/s : Mr.Shyameshwar Dayal

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

4 05-06-2020 The present case was heard at length on
02.06.2020 and today, it has been listed under the heading
“For Orders”.

The petitioner seeks regular bail in connection
with Barauni PS case no. 547 of 2018 instituted for the
offences punishable under Section 302, 201/34 of Indian
Penal Code.

The case of the prosecution in brief according
to the informant namely Amina Khatoon is that while she was
at her home on 13.11.2018, at about 19:10 hrs., the son of the
informant namely Md. Sahanwaj had gone out of the house. It is
further alleged that after one hour, the informant had tried to
contact her son on mobile, however the mobile phone of the son



of the informant was reported to be switched-off, whereafter the informant had tried to search her son in the village at her relative's place, however he could not be traced. On 08.11.2018, the informant received information from Bakhatpur PS that one dead body has been recovered from the well at Hazipur Chaur, whereafter the informant had gone there and found that the dead body was that of his son. It is further alleged that the son of the informant was in contact with one girl since sometime on face book and the said girl is stated to be the daughter of the petitioner herein. The son of the informant is stated to have married the said girl by representing him as bachelor, however after the villagers came to know that the son of the informant was married from before, then the informant was called at village Hamo Bakhatpur, whereupon the informant along with her son had gone there, whereafter the relatives of the girl told her that her son has committed a grave wrong and they will have to bear the consequences very soon. It is alleged that subsequently thereafter, the dead body of the son of the informant was recovered.

The learned counsel for the petitioner has submitted that the petitioner is innocent, has been falsely implicated in the present case, he is having a clean antecedent



and is languishing in custody since 24.08.2019. It is further submitted that there is no conclusive proof of the petitioner being involved in killing the son of the informant. It is also submitted that though the son of the informant was missing since 13.11.2018 but the post mortem report conducted on 19.11.2018 at 7.30 am shows that the deceased had died within 6-12 hrs. of the conduct of the post mortem, hence the allegation of the prosecution is bellied.

Per contra, the learned APP for the State and the learned counsel for the informant have vehemently opposed the prayer for bail.

I have heard the learned counsel for the parties, considered the materials on record and perused the case diary. A bare perusal of the case diary would show that the witnesses have merely reiterated the statement of the informant made in her *fardbeyan* before the police. From the case diary, it does not appear that the police has undertaken any forensic investigation or has found any material so as to connect the petitioner with the alleged crime. In the present case, there are no eye-witness and infact, there is no evidence to suggest that the petitioner was last seen with the deceased, hence at this juncture, it is difficult to conclusively come to a finding that the petitioner is guilty of the



alleged crime, hence considering the fact that the petitioner is having a clean antecedent and is languishing in custody since a long time, benefit of doubt can be extended to him for the purposes of grant of regular bail. Hence, this Court deems it fit and proper to release the petitioner on regular bail on furnishing bail bond of Rs. 10,000/- (Rs. Ten thousand) with two sureties of the like amount each to the satisfaction of learned J.M. 1st class, Begusarai in connection with Barauni PS case no. 547 of 2018.

It is further directed that the petitioner shall mark his presence before the officer-in-charge of the concerned police station at 10 am on every Monday, starting from the day he is released on bail, and in case of failure to do so on two consecutive occasions, the present privilege of bail shall stand cancelled automatically and the petitioner shall be taken into custody forthwith.

(Mohit Kumar Shah, J)

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