

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13132 of 2020**

Arising Out of PS. Case No.-295 Year-2019 Thana- NAVINAGAR District- Aurangabad

VIVEK CHANDRAVANSHI @ VIVEK KUMAR S/o Mahendra Paswan @
Mahendra Pasawan R/o village- Tilhapur Tola Shankarpur, P.S.- Nabinagar,
District- Aurangabad

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shailesh Kumar Singh
For the Opposite Party/s : Mr. Ashok Kumar
Mr. Rabindra Kumar

**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER**

4 08-06-2020 The present case was heard at length on 03.06.2020 and
today it has been placed before this Court 'For Orders'.

The petitioner seeks regular bail in connection with
Nabinagar P.S. Case No. 295 of 2019 for the offence punishable
under Sections 302, 379 and 34 of the Indian Penal Code.

The case of the prosecution as per the written version of
the informant is that on 13.10.2019 at about 8:00 P.M. in the
night while the informant was coming back from village-Khajuri
on his goods carrier tempo and as soon as he took a turn near
the brick kiln situated at Sonpura colony, he found that the
tempo of his brother was standing and some people were
beating one person mercilessly by fist and legs whereafter



the said miscreants had dragged the said person towards the canal. It is further alleged that when the informant had called his brother, namely, Saddam Ansari, there was no answer, hence he followed the said miscreant and found that the petitioner herein along with other accused persons had thrown the said person near the canal and while they were going away, they had told the informant that they had killed one Muslim person whereupon the petitioner went near the said person who had been thrown near the canal and found that he was his brother Saddam Ansari who was in unconscious state and blood was oozing from his mouth. The informant is stated to have loaded his brother on his tempo and brought him to his house and in the morning he had gone to doctor Najmul Islam for the treatment of his brother. However, the doctor told them to go to Aurangabad for treatment. In the meantime, the brother of the informant had become conscious whereupon he told that while he was returning from the house of his sister at Duranand and had reached near Shankarpur bridge, the co-accused persons, namely, Nagendra and Shakti had intercepted him and snatched his mobile as also a sum of Rs. 2,000/- whereafter they had also assaulted him, however, he had



managed to escape, however, the accused persons had subsequently chased the brother of the informant and were successful in surrounding him near the brick kiln at Sonpura colony, whereupon the said accused persons including the petitioner herein had assaulted the brother of the informant mercilessly and had then thrown him. It is further alleged by the informant that the informant had then taken his brother to Dehri-on-Sone and he was examined by the doctor at Sharma Poly Clinic who disclosed that the intestine of his brother had burst and he is required to be operated immediately and referred the brother of the informant for better treatment. Whereafter they went to Aurangabad where the brother of the informant was operated upon, however, on 18.10.2019 at about 4:00 in the morning, he died on account of severe injury in the intestine as also on account of loss of huge amount of blood.

The learned counsel for the petitioner has submitted that the petitioner is innocent, he has been falsely implicated in the present case and he is having a clean antecedent. The informant has not named the petitioner to have assaulted the brother of the informant. It is further submitted that there is



no eye witness to the alleged occurrence and the petitioner is unnecessarily languishing in custody since 09.01.2020, hence he deserves to be granted the privilege of bail. It is also the case of the petitioner that the statement of the widow, recorded in paragraph-56 of the case dairy would show that the deceased never regained sense as such the story that the deceased had disclosed the name of the petitioner is improbable. It is further submitted that though the date of occurrence is 13.10.2019 but the FIR has been lodged only on 25.10.2019 i.e. after a great delay, hence false implication of the petitioner is writ large. Lastly, it is submitted that similarly situated co-accused persons have already been granted regular bail by coordinate Benches of this Court vide order dated 02.06.2020 passed in Criminal Misc. No. 13729 of 2020, the order dated 11141 of 2020 dated 01.06.2020 and Criminal Misc. No. 11136 of 2020 dated 01.06.2020.

Per contra, the learned A.P.P. for the State has vehemently opposed the prayer for bail.

Having considered the submissions made by the learned counsel for the parties, considering the materials on record as also upon perusal of the case dairy, it is apparent that the FIR



has been lodged belatedly, there is no allegation of any sort of overt act as against the petitioner herein and moreover the petitioner is having a clean antecedent, hence this Court deems it fit and proper to grant regular bail to the petitioner especially considering the parity of his case with that of the co-accused persons, who have already been granted regular bail by a coordinate Benches of this Court.

Accordingly, the petitioner, above named, is directed to be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Aurangabad in connection with Nabinagar P.S. Case No. 295 of 2019.

(Mohit Kumar Shah, J)

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