

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.21243 of 2020**

Arising Out of PS. Case No.-135 Year-2019 Thana- MURLIGANJ District- Madhepura

AMIT KUMAR @ AMIT YADAV Son of Bashisth Narayan Yadav Resident
of Village - Bhelahi, P.S.- Murliganj, District - Madhepura

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr Sandeep Kumar, Advocate Mr. Shailendra Kumar Singh, Advocate
For the Opposite Party/s :		Mr.Akhileshwar Dayal, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

3 21-08-2020 Learned counsel for the petitioner undertake to remove all the defects within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Mr. Akhileshawar Dayal, learned APP for the State.

The petitioner in the present case is seeking regular bail in connection with Murliganj P.S. Case No. 135 of 2019 registered for the offences punishable under Sections 364, 302, 201/34 of the Indian Penal Code.

According to the First Information Report while the uncle of the informant along with the informant and two other persons namely Suman Kumar and Ankesh Kumar had gone to visit the Mela and they were watching orchestra, in the meantime the petitioner and the co-accused Piku Yadav, Jawahar Yadav, Ranjan Yadav, Binod Yadav, Sadanand Yadav, Lalo Yadav, Bashisht Narayan Yadav,



Manikchand Yadav, Vigus Yadav and Sonu Kumar along with other unknown persons came there. It is alleged this petitioner started abusing the uncle of the informant and had also assaulted him. At his instance all the accused persons had forcibly taken away the uncle of the informant in a Bolero vehicle. On the next morning the dead body of the uncle of the informant was found at Benga Ghat.

Learned counsel for the petitioner submits that the whole allegation against the petitioner is false, concocted and baseless. The petitioner has got no criminal antecedent as stated in paragraph '3' of the present application and he had contested election for the post of Mukhiya against Vijay Yadav who is uncle of the informant and because of this only in a case where the deceased has died due to drowning while he was in intoxicated condition, the petitioner and others have been involved.

Learned counsel submits that in course of investigation the two witnesses who have been examined by the investigating officer are Suman Kumar and Pawan Kumar both sons of Vijay Yadav, they have categorically stated what they have been told by the informant. It is submitted that apparently witnesses Suman Kumar and Pawan Kumar have not seen this petitioner involved in the alleged occurrence.

It is further submitted that the wife of the deceased has not been examined by the investigating officer because she was not in favour of falsely implicating the petitioner and others. In the



supervision note in fact the accusation against some of the accused persons have not been found correct which may be seen from report no. III as stated in paragraph '75' of the case diary.

Learned counsel submits that although in the impugned order the learned court below has mentioned the inquest report and the statements made in paragraph '2', '27' and '32' of the case diary, a perusal thereof would not suggest that there is no independent eye witness to the alleged occurrence showing involvement of the petitioner and, therefore, learned counsel reiterates that it is a case of false implication. The post mortem report shows cause of death as asphyxia due to drowning.

Learned counsel has also pointed out that some of the co-accused similarly situated have been granted regular bail by a learned Co-ordinate Bench of this Court. In this connection learned counsel has placed before this Court the orders passed in Cri. Misc. No. 66108 of 2019 (Lalo Yadav @ Lalu Kumar versus State of Bihar) and Cri. Misc. No. 3626 of 2020 (Jawahar Yadav and another versus State of Bihar).

Learned APP for the State has opposed the prayer for regular bail of the petitioner as according to him in the FIR it has come that at his instance the other co-accused persons had taken away the uncle of the informant whose dead body was later on recovered.

Having regard to the facts and circumstances of the case



and upon perusal of the case diary, noticing the submissions of learned counsel for the petitioner that save and except the informant no independent witness has come forward to support the allegations against the petitioner, his involvement has not been seen by any other witness and the statement in paragraph '6' of the witnesses Suman Kumar and Pawan Kumar who are sons of Vijay Yadav against whom this petitioner had contested the election are hearsay statement as also the post mortem report suggesting the death due to drowning and the co-accused have been granted bail by a learned Co-ordinate Bench of this Court, the petitioner being in custody since 25.11.2019 and further incarceration of the petitioner in custody is not likely to come in aid of investigation or help the prosecution, let the petitioner above named be released on bail in connection with Murliganj P.S. Case No. 135 of 2019 on furnishing of bail bonds of Rs. 25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction learned C.J.M., Madhepura, subject to the conditions as laid down under Section 437(3) of the Cr.P.C. as under:

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, or the commission of which he is suspected, and

(c) that such person shall not, directly or indirectly, make



any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that they will abide by and observe the guidelines and directives of the Government of India and the State Government with regard to COVID-19 Pandemic during the lockdown period. The authorities concerned shall take appropriate steps to ensure such observance prior to and after release of the petitioners.

This application stands allowed.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

