

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14157 of 2021

Arising Out of PS. Case No.-108 Year-2020 Thana- RAJEPUR District- East Champaran

Baiju Sah @ Baidhyanath Sah, aged about 76 years, Male, S/O Late Dhaneshwar Sah, resident of village- Mahamadpur Majhauriya, P.S- Rajepur, District-East Champaran at Motihari.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Rajesh Kumar Singh along with Mr. Manish Kumar Singh, Advocates
For the State	:	Mr. Md. Mushtaque Alam, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 07-06-2021

The matter has been heard *via* video conferencing.

2. The matter has been heard out of turn on the basis of motion slip filed by learned counsel for the petitioner on 03.06.2021, which was allowed.

3. Heard Mr. Rajesh Kumar Singh, learned counsel along with Mr. Manish Kumar Singh, learned counsel for the petitioner and Mr. Md. Mushtaque Alam, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

4. The petitioner apprehends arrest in connection with Rajepur PS Case No. 108 of 2020 dated 11.09.2020, instituted under Sections 306, 201/34 of the Indian Penal Code.



5. The allegation against the petitioner, who is the father of the deceased, is that he was party to killing him.

6. Learned counsel for the petitioner submitted that he is 76 years old and is the father of the deceased having no criminal antecedent. It was submitted that nobody has made any complaint, including the wife of the deceased and most importantly, when the deceased and his wife were living separately and even the wife has not made any complaint of this sort, the police have *suo motu* lodged the FIR, that too, only on the ground that when the police reached the place where the body was being cremated, everybody, including the petitioner had run away. Learned counsel submitted that the deceased was alcoholic and even the inquest report discloses that there was smell coming from his mouth and in the postmortem report, there is no specific finding and viscera has been sent for forensic report. Learned counsel submitted that besides being advanced in age, the petitioner has no criminal antecedent and as he has already been burdened with the trauma of losing his son, now, the police is also traumatizing him by filing this patently false case. Learned counsel further submitted that it is very natural for people to run away on seeing the police, but that does not mean that they are involved in any wrong doing, at



least in the present case.

7. Learned APP could not controvert the fact that only on the basis of the fact that persons had run away from the site when the police reached, he has been made accused.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the concerned learned Judicial Magistrate, 1st Class, Sadar at Motihari, (East Champaran) in Rajepur PS Case No. 108 of 2020, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further (i) that one of the bailors shall be a close relative of the petitioner, (ii) that the petitioner shall cooperate with the Court and the police/prosecution. Failure to cooperate shall lead to cancellation of his bail bonds.

9. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioner, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of



hearing to the petitioner.

10. The application stands disposed off in the
aforementioned terms.

(Ahsanuddin Amanullah, J)

J. Alam/-

AFR/NAFR	
U	
T	

