

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16074 of 2021

Arising Out of PS. Case No.-28 Year-2020 Thana- NALANDA District- Nalanda

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KUNDAN KUMAR S/o Sharan Yadav R/o Village- Mamurabad, P.S.-
Nalanda, District- Nalanda.

... .. Petitioner.

Versus

The State of Bihar

... .. Opposite Party.

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Appearance :

For the Petitioner	:	Mr. Raj Kishore Prasad, Advocate.
For the State	:	Mr. Md. Mushtaque Alam, A.P.P.
For the Informant	:	Mrs. Priya Gupta, Advocate.

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CORAM: HONOURABLE MR. JUSTICE A. M. BADAR
ORAL ORDER

4 23-11-2021 The applicant/accused in Crime No.28 of 2020 registered with Police Station-Nalanda for the offences punishable under Section 302 read with Sections 34 and 201 of the Indian Penal Code by this application is seeking his release on bail during the pendency of the trial.

Heard Mr. Raj Kishore Prasad, learned counsel appearing for the applicant/accused.

He argued that the F.I.R. is lodged by Sadan Prasad, father of the deceased, on the basis of hearsay information. He further argued that there is no direct evidence against the applicant to implicate him in the crime in question. According to the learned counsel for the applicant, investigation of the crime in question is already over and, therefore, the applicant is



entitled for bail.

I have also heard learned Additional Public Prosecutor and Mrs. Priya Gupta, learned counsel appearing for the first informant.

Mrs. Priya Gupta, learned counsel appearing for the first informant, drew my attention to the statement of Virendra Prasad alias Bachchu Prasad and contended that this witness is an eye witness of the occurrence in question. She submitted that the last seen theory is squarely applicable in the case in hand. It is further argued by the learned counsel appearing for the first informant that statement of Ravi Shankar alias Pappu shows that the witness Virendra Prasad alias Bachchu Prasad had given former statement before him immediately after the incident of assault and had stated that the deceased Gyan Shankar alias Chunnu is being beaten by the applicant and two other co-accused. She argued that the statement of Ravi Shankar alias Pappu shows that search conducted immediately thereafter resulted in finding of the motorcycle of the deceased on the spot stated by the witness Virendra Prasad alias Bachchu Prasad. Footwear of the deceased was found in the vicinity and ultimately dead body of Gyan Shankar alias Chunnu was found in the morning with ante-mortem injuries thereon. She placed



reliance on the report of the Post-Mortem Examination.

Prima facie, there seems to be enough material to infer the complicity of the applicant/accused in the offence alleged against him. Witness Virendra Prasad alias Bachchu Prasad was accompanied deceased Gyan Shankar alias Chunnu. They were accosted by the applicant and the co-accused. All accused persons started assaulting the deceased Gyan Shankar alias Chunnu. As seen from the statement of Virendra Prasad alias Bachchu Prasad, he rushed to the house of Ravi Shankar alias Pappu and disclosed the incident to Ravi Shankar alias Pappu by naming the applicant and the co-accused as assailants of the deceased Gyan Shankar alias Chunnu. This former statement of Virendra Prasad alias Bachchu Prasad is relevant as per the provisions of Section 157 of the Evidence Act. Similarly, post event happenings are also reflected from the statement of Ravi Shankar alias Pappu corroborating the version of witness Virendra Prasad alias Bachchu Prasad. Motorcycle of the deceased was found on the spot so also the footwear of he deceased was also found on the spot stated by the witness Virendra Prasad alias Bachchu Prasad. Immediately thereafter within few hours, dead body of the deceased Gyan Shankar alias Chunnu was found with ante-mortem injuries indicating



homicidal death.

In this view of the matter, no case for grant of bail to
the applicant/accused is made out. Application is rejected.

(A. M. Badar, J)

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