

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16234 of 2021

Arising Out of PS. Case No.-106 Year-2020 Thana- TARAPUR District- Munger

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RUSTAM KUMAR @ RUSTAM YADAV, S/O CHANDRIKA PRASAD
YADAV, R/o village- Madhura, P.S.- Tarapur, District- Munger

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Indu Bhushan, Adv.

For the Opposite Party/s : Mr.Surendra Prasad Singh, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

6 27-10-2021 Learned counsel for the petitioner undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Learned counsel for the petitioner submits that the name of the petitioner is Rustam Kumar but in the impugned order it is recorded as Rustam Yadav, therefore, in order to avoid any technical objection, he may be permitted to add an alias name in the name of the petitioner.

Permission is granted. Let the same be done in course of the day.

Heard learned counsel for the petitioner and Mr. Surendra Prasad Singh, learned A.P.P. for the State.

Petitioner in the present case is seeking regular bail in connection with Tarapur P.S. Case No.106 of 2020 registered for



the offences punishable under Sections 363, 365, 34, 302 and 201 of the Indian Penal Code. He is in custody since 24.07.2020. The petitioner has no criminal antecedent.

Learned counsel for the petitioner submits that as per the prosecution story the co-accused Ambuj Yadav had called the son of the informant and the son of his uncle Rabindra Kumar Singh and it was he who had taken away both the boys. In the FIR, the informant has raised suspicion that the accused nos. 2 to 7 have conspired and got the two boys missing. They also apprehended that both the boys may have been murdered. In the FIR, it is also stated that Rabindra Kumar Singh and co-accused Ram Singh and others had a quarrel on the issue of theft of pressure cooker.

Learned counsel for the petitioner submits that it is a case of false and over implication of the accused. So far as this petitioner is concerned, there is no allegation that he had taken away the victim boys. He is also not son of the co-accused Ram Singh. He has been falsely implicated only because he is a neighbour of co-accused Ram Singh and the informant had a suspicion as regards the involvement of this petitioner also in the conspiracy. The co-accused Ram Singh and his sons are accused nos.2, 3 and 4 respectively.



It is lastly submitted that in course of investigation no eye witness has come to support the prosecution story, nobody has seen the petitioner with the two boys but on the basis of the confessional statement of co-accused Ambuj Yadav the name of this petitioner has transpired as one of the persons who was also present when the two boys were taken into the river forcibly for taking a bath and then they were murdered by the co-accused, even from the confessional statement of the co-accused which has been extracted in police custody no active participation of the petitioner may be noticed. It is only stated that the petitioner was standing at the bank of the river.

Learned counsel submits that in the given circumstance there is every possibility of over implication of the accused, he is a young boy and because of the village rivalry only he has been made accused.

Mr. Surendra Prasad Singh, learned APP for the State has though opposed the prayer for regular bail of the petitioner but after going through the case diary, learned APP submits that it is the confessional statement of co-accused Ambuj Yadav in which the name of the petitioner has transpired but except a role of presence of the petitioner no active participation of the petitioner has been recorded in the confessional statement.



Further in course of investigation no material has come showing any enmity between the petitioner and that of the deceased family.

Having regard to the facts and circumstances of the case, though the allegations are serious in nature, but this Court has noticed that in course of investigation no material has come that this petitioner had either gone to call the victim boys from their house, the specific allegation in this regard is against the co-accused Ambuj Yadav and further even in the confessional statement of the co-accused Ambuj Yadav no active participation of this petitioner has been pointed out and further that the petitioner has no criminal antecedent, he has remained in custody for over one year, investigation against him is complete and it is stated in the impugned order that the petitioner is a student, and there is no eye witness of the occurrence, this Court directs that the petitioner above named be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned A.C.J.M.-IV, Munger in connection with Tarapur P.S. Case No.106 of 2020, subject to the condition as laid down under Section 437 (3) Cr.P.C.

And further condition that the court below shall verify



the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(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'.

