

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19567 of 2021

Arising Out of PS. Case No.-610 Year-2020 Thana- KUDHNI District- Muzaffarpur

RAKESH KUMAR GIRI Son of Lal Babu Giri Resident of Village -
Manikpur, Police station - Baniyapur, District - Saran.

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Viveka Nand Singh, Advocate

For the Opposite Party/s : Mr.Binod Kumar No. 3, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 21-10-2021 Heard learned counsel for the petitioner and Mr.
Binod Kumar No. 3, learned A.P.P. for the State.

Petitioner, in the present case, is seeking regular bail in connection with Kudhani P.S. Case No. 610/2020 registered for the offence under Sections 302, 201, 120B/34 of the Indian Penal Code and 27 of the Arms Act. He is in custody since 18.09.2020 having no criminal antecedent.

As per the prosecution story, the father of this informant had left his house on 15.09.2020 at about 8:30 A.M. with the Bolero Vehicle. When he did not return till 9:00 P.M., the informant started calling his father on his mobile number but the mobile was coming switched off. The informant alleged that on the next day i.e. 16.09.2020 at about 7:00 A.M. he got information through the Officer-in-Charge of Kudhani Police Station that a dead body was lying near N.H.-22 by the side of



the village Chandrahatti. On receiving such information the informant reached there with his family and found that the dead body was that of his father. Later on, the dead body was sent for post-mortem. The Bolero vehicle could not be traced till the time of lodging of the F.I.R.

Learned counsel for the petitioner submits that in course of investigation the Bolero vehicle was recovered from the house of co-accused Brajesh Kumar Singh. Police got recorded his confessional statement in which said Brajesh Kumar Singh admitted to have taken away the driver (since deceased) with the vehicle on a false pretext and thereafter with an intention to loot the vehicle when he asked the driver to come down from the vehicle at a lonely place, the driver got indulged in the scuffle with the said co-accused whereupon he fired from his pistol just below the waist of the driver but the driver was still resisting him and on finding this, the petitioner took the pistol from the hand of the co-accused Brajesh Kumar Singh and fired on the back-side of the driver whereafter the driver fell down on the seat of the Bolero vehicle and started bleeding, thereafter the accused persons threw the dead body on the road side and fled away with the vehicle.

Learned counsel submits that the co-accused Brajesh



Kumar Singh from whose house the vehicle was recovered has been granted bail by a learned coordinate Bench of this court in Cr. Misc. No. 17715/2021. It is his further submission that another co-accused Anup Kumar Singh has been granted bail in Cr. Misc. No. 12772/2021. It is, thus his submission that the case of the petitioner stands on a better footing than those of the co-accused who have been granted bail.

Mr. Binod Kumar No. 3, learned A.P.P. for the State has vehemently opposed the prayer for regular bail of the petitioner. It is his submission that in this case some scientific investigation has been done by the investigating agency. The vehicle was fitted with the GPS on the basis of which the location of the vehicle was traced. When the police party reached to the house of the co-accused Brajesh Kumar Singh, the vehicle was there and the blood marks were present in the vehicle which were sent to the FSL. On seeing the police party the co-accused Brajesh Kumar Singh, this petitioner who was also present there and the co-accused started fleeing away whereafter they were chased and arrested.

Learned counsel further submits that so far as the bail granted to the co-accused are concerned, it would appear from a bare reading of the order that the learned coordinate Bench was



not informed of the materials which were available in the case diary. No material present in the case diary is mentioned in the order by which the co-accused have been granted bail and further it seems that as regards co-accused Brajesh Kumar Singh a wrong submission was made that even in the confession of the co-accused the petitioner is not described as assailant of the deceased, the fact is that the said Brajesh Kumar Singh and this petitioner both are said to be the assailant of the deceased. Learned A.P.P. thus submits that there being huge cogent materials present in the case diary, the principle of parity pleaded on behalf of the petitioner is not fit to be accepted. It is submitted that the Hon'ble Apex Court has times and again observed that whenever the plea of parity is argued, the role of the accused on whose behalf bail is prayed must be examined. Reference has been made to the judgment of the Hon'ble Apex Court in the case of **Mahadev Meena Vs. Raveen Rathore and Another passed in Cr. Appeal No. 1089 of 2021 (arising out of SLP (Criminal) No. 4072 of 2021 decided on 27th September 2021.**

Having regard to the facts and circumstances of the case, this court finds that the allegations are very serious in nature, the Bolero vehicle was looted away and in course of that



loot the driver was killed. The vehicle has been seized from the house of Brajesh Kumar Singh and when the police party reached there this petitioner was also present there, on chase he was arrested with the co-accused. The Bolero vehicle was having blood marks on the seat and in these circumstances no doubt police has got the confessional statement of the co-accused allegedly in police custody in which the co-accused has stated about his own role and the role of this petitioner have been mentioned as that of the assailants, the entire materials are such that this Court is not inclined to accept the plea of parity to grant bail to the petitioner.

The prayer for bail is, thus, refused.

Let the trial be accepted.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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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'.

