

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19565 of 2021

Arising Out of PS. Case No.-498 Year-2020 Thana- BETTIAH CITY District- West
Champaran

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RATNESH MISHRA, S/O RAJESHWAR MISHRA, R/o village- Hanumant
Nagar, Uttarwari Pokhra, P.S.- Bettiah Nagar, Kalibagh O.P., Distt.- West
Champaran

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s	:	Mr.N.K. Agrawal, Sr. Advocate Mr. Amresh Kumar Sinha, Advocate Ms. Preety Kunwar, Advocate
For the Opposite Party/s :		Mr. Binod Kumar No. 3, A.P.P.
For the Informant	:	Mr. A.K. Shrivastava, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 28-10-2021 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.

Heard Mr. N. K. Agrawal, learned Senior Counsel for
the petitioner assisted by Mr. Amresh Kumar Sinha, learned
Advocate, Mr. A.K. Shrivastava, learned counsel for the informant
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 Bettiah (Town) P.S. Case No. 498 of 2020
registered for the offence punishable under Sections 364, 365, 38,
302, 201, 120(B)/34 of the Indian Penal Code. He is in custody
since 22.08.2020. Petitioner has no criminal antecedent.



As per the prosecution story giving rise to the present F.I.R., on 19.08.2020 when the informant and her son had gone towards Station Chowk for purchase a Pizza, near Hero Service Centre situated at Kamal Nath Nagar altogether six named accused persons and 5-6 unknown persons surrounded them and they started assaulting the son of the informant. The informant tried to save her son but the accused persons were lashed with weapons and daggers. It is then alleged that co-accused Bholi Kumar and Ratnesh Mishra (this petitioner) were forcibly making the son of the informant to sit on the motorcycle. Co-accused Dinesh was driving the motorcycle, there were other 4-5 motorcycle borne persons. It is further alleged that when her son was not sitting on the motorcycle, co-accused Brajesh Kumar threatened him by his pistol and asked co-accused Sachin to take out the dagger whereafter co-accused Nanki and other threatened him and forcibly made him to sit on the motorcycle, they took out a sum of Rs. 20,000/- which were kept in the pocket of the son of the informant and they pushed the informant down whereafter the informant kept on crying but her son had been kidnapped.

The informant then alleges that she came back to her Mohalla and information was given to Mohalla people and the Police whereafter the informant along with her family members and Mohalla people went in search of the boy and in course of



search on 19.08.2020 at about 1.30 A.M. (night hours) the dead body of her son was found inside the planting of one Arun Kumar near Mirja Toli. The dead body was lying in pool of blood. The informant alleges that the accused persons had demanded Rangdari from her son which her son had refused to give whereafter the occurrence has taken place. It is alleged that accused persons are of criminal nature and several cases are lodged against them.

Learned Senior Counsel for the petitioner submits that on a bare reading of the F.I.R. it would appear that the alleged occurrence had taken place on 18.08.2020 at 7.30 P.M. in the market area of the township falling within the town Police Station of Bettiah. The informant claims herself an eye witness but her conduct makes her highly doubtful as an eye witness, inasmuch as, it would appear that after the alleged occurrence she goes back to her Mohalla and there she informs this to her Mohalla people and claims that such information was given to Police, still it was she who along with her Mohalla people only went in search of the boy and they themselves found out the dead body inside the planting of one Arun Kumar in Mirja Toli.

Learned Senior Counsel submits that the informant or any of the Mohalla people did not go to the Police Station which was in the township itself, no information of this occurrence was



given by any other person of the market area to Police on 18.08.2020 which shows that this informant is not an eye witness to the alleged occurrence and she has concocted this story only after getting the dead body of her son and under some tutored version the F.I.R. has been lodged.

Learned Senior Counsel further points out that in the F.I.R. the informant says that the miscreants are those against whom several cases are lodged in different Police Stations but so far as this petitioner is concerned, he has got no criminal antecedent.

Further, even as per the F.I.R., there is a completely vague allegation that this petitioner along with co-accused Bholi Kumar was making the son of the informant to sit on the motorcycle but thereafter informant herself says that when her son was not sitting, it was co-accused Brajesh Kumar Singh who threatened him on the point of a pistol and thereafter asked Sachin to take out the dagger and then they made her son to sit on the motorcycle, the motorcycle was driven by Dinesh Kumar.

It is pointed out that the prayer for bail of Dinesh Kumar as well as Brajesh Kumar has been rejected in Cr. Misc. No. 1066 of 2021 and Cr.Misc. No. 30409 of 2021, the case of this petitioner, therefore, stands on a different footing.

Mr. Binod Kumar No. 3, learned A.P.P. for the State as



well as learned counsel for the informant have opposed the prayer for regular bail of the petitioner. It is submitted that the informant claims herself an eye witness to the alleged occurrence and it is a case of brutal murder of her son. It is, however, not denied after going through the case diary that so far as this petitioner is concerned, he has no criminal antecedent and further that he was not driving the motorcycle in question and further there was no weapon in the hands of this petitioner as per allegation.

Considering the facts and circumstances of the case, this Court though finds that the allegations are serious in nature and it is about killing of a young boy but the submission of learned Senior Counsel that such occurrence was not reported to the Police Station on the same date i.e. on 18.08.2020 though it had allegedly happened in the market area and then informant and her family members went in search of the boy seems giving rise to some doubt at this stage and further the learned A.P.P. confirming from the case diary that there is no entry therein that any information was given to the Police Station with regard to the occurrence on 18.08.2020 and there is no such entry in the Police Diary, at this stage, considering that the case of the petitioner also stands on a different footing from those whose prayer for bail has been rejected, this Court directs release of the petitioner above named 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 Judicial Magistrate 1st Class, West Champaran at Bettiah in connection with Bettiah (Town) P.S. Case No. 498 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)

vats/-

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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'.

