

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20954 of 2021

Arising Out of PS. Case No.-33 Year-2020 Thana- BALIYA District- Begusarai

Deepak Choudhary, Son Of Prakash Chaudhary, Resident of Village- Janipur
P.S.- Ballia, Distt.- Begusarai

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Randhir Kumar No.1, Advocate
For the Opposite Party/s : Mr.Arun Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 02-11-2021 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 learned counsel for the petitioner and Mr. Arun Kumar, learned A.P.P. for the State.

Petitioner in the present case is seeking regular bail in connection with Ballia P.S. Case No. 33 of 2020 registered for the offence punishable under Section 302, 120(B)/34 of the Indian Penal Code. He is in custody since 18.06.2020. Petitioner has no criminal antecedent.

Learned counsel for the petitioner submits that as per the prosecution story, co-accused Nitish Kumar had come to the house of the informant and had taken away her son Vikky Kumar and her neighbour Chhotu Kumar @ Munna on a bicycle on the pretext of participating in Visarjan of statue of Goddess



Sharshwati. When they did not return, the informant along with other family members started searching them and at about 12.30-1.00 P.M. the informant found the dead body of Vikky Kumar and Chhotu Kumar in Lichi orchard of Md. Samad. Both were murdered by sharp weapons cutting their necks.

Learned counsel submits that so far as this petitioner is concerned, he is not named in the First Information Report, his name has transpired later on in the statement of some of the witnesses and in the confessional statement of co-accused Nitish Kumar. Co-accused Nitish Kumar has stated active participation of this petitioner and another co-accused Munna Kumar Yadav @ Munna Yadav and at his instance Hasuli (sharp cut weapon) allegedly used in the murder of the son of the informant has been recovered from his 'Bhusa Ghar'.

Learned counsel submits that co-accused Munna Kumar Yadav @ Munna Yadav has been granted bail by a learned coordinate Bench of this Court in Cr. Misc. No. 1417 of 2021 and as such this petitioner being similarly situated be enlarged on bail.

On the other hand, Mr. Arun Kumar, learned A.P.P. for the State has vehemently opposed the prayer for regular bail of the petitioner. It is submitted that the petitioner has actively



participated in the killing of two young boys and not only the name of the petitioner has transpired in the statement of Nitish Kumar rather on the basis of his statement the weapon i.e. Hasuli used in commission of crime has also been recovered by Police.

Learned A.P.P. has further drawn the attention of this Court reading out the statement of the witnesses recorded in paragraph '8', '9', '10' and '11' of the case diary. The witness in paragraph '8' is the wife of one of the deceased Vikky Kumar. She has narrated the entire story right from beginning as to how Nitish had helped in the love marriage with the deceased but had become inimical later on. She has also named this petitioner saying that when she made a telephonic call to her husband from the mobile number of her Phua, he told her that he was in the orchard and he along with Nitish, this petitioner and three others were engaged in celebrating party. The witness in paragraph '9' has stated that he had seen Nitish taking away the victims and the witnesses in paragraph '10' and '11' have further stated that when they went to the house of this petitioner, it was found that from the villagers that he along with co-accused Nitish had fled away from the village.

Learned A.P.P. submits that given the kind of



materials present against the petitioner and considering the seriousness of the allegations and severity of the punishment the petitioner does not deserve privilege of bail.

On the point of plea of parity with co-accused Munna Kumar Yadav @ Munna Yadav learned A.P.P. has submitted before this Court that it appears from the order in the case of Munna Kumar Yadav @ Munna Yadav that in the said case no submission at all was made on behalf of the learned A.P.P. and the Court was not informed of any material at all which were present in the case diary, under such circumstances, in view of the catena of decisions and reason in the case of **Mahadev Meena Vs. Raveen Rathore and Another** reported in **2021 SCC OnLine SC 804** by the Hon'ble Apex Court the plea of parity cannot succeed.

Having regard to the seriousness of the allegations that two young boys have been murdered, there is an active participation of this petitioner and in this regard there are materials in various paragraphs of the case diary which have been taken note of in this order, the severity of punishment and that the plea of parity cannot be accepted in the given kind of materials present in this case against the petitioner, this Court refuses to enlarge the petitioner on bail. Prayer for bail is, thus,



rejected.

Let the trial be expedited.

In the case of **Nitish Kumar vs. The State of Bihar**
(Cr. Misc. No. 38963 of 2020) this Court has recorded it's
expectation that the trial in this case shall be expedited and
endeavour be made to conclude the trial preferably within a
period of one year from the date of start of normal functioning
of the court.

This application stands disposed of accordingly.

(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'.

