

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22564 of 2021**

Arising Out of PS. Case No.-345 Year-2020 Thana- GAYA MUFASIL District- Gaya

Ram Pravesh Yadav @ Gas S/O Lakhon Yadav R/o village- Nauranga, P.S.-
Muffasil, District- Gaya

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar, Adv.

For the Opposite Party/s : Mr. Nityanand Tiwary, APP

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

4 16-12-2021 The applicant/accused in Crime No. 345 of 2020 registered with Mufassil Police Station for the offences punishable under sections 302, 201 read with 34 of the Indian Penal Code, by this application is seeking his release on bail during pendency of the trial.

It is said that charge-sheet has already been filed and the applicant is behind the Bars from 16.9.2020.

Heard learned counsel for the applicant. He submits that so-called oral dying declaration made by the deceased is belied by the CCTV footage reported to be seized during the investigation. Except the so-called oral dying declaration made by the deceased to his relatives there is no other evidence to connect the applicant to the crime in question.

Learned Public Prosecutor opposed the prayer for bail



by contending that there are several witnesses who have spoken about the oral dying declaration of the deceased Rahul Kumar.

I have considered the submission so advance and also perusal the entire charge-sheet/case diary.

The crime in question is registered on the basis of report lodged by Bablu Singh on 15.9.2020. He reported about murder of his cousin Rahul Kumar, son of Ramadhar Singh. The first informant is not an eye-witness to the incidence and the case diary also does not reflect that there is any other eye-witness to the incidence. The first informant, Bablu Singh reported that from unknown persons he received information that the present applicant and 11 others had abducted his cousin Rahul Kumar for robing and then attempted to kill him by brutally beating him. The first informant averred that he along with others relatives went to the spot and found Rahul Kumar alive. The first informant claimed that in his oral dying declaration made to them by Rahul Kumar on the way to the hospital, Rahul Kumar has named the applicant along with others who had participated in the crime in question.

During the course of investigation, the prosecution has recorded statement of several witnesses including Sanu, son of Sheopujan, Roushan Kumar, Indrajeet Singh (father of the



deceased) etc. They all have spoken about the oral dying declaration of the deceased made on the way to the hospital.

According to the witnesses, Rahul Kumar died on the way to the hospital. During the course of the trial, it will have to be ascertained whether Rahul Kumar was in a fit condition to make a declaration particularly when he died on the way to the hospital itself.

During the course of investigation, the prosecution has seized CCTV footage covering the entire incidence as seen from para-26 of the case diary. However, it is clear from reading that paragraph that the applicant was not seen in that CCTV footage.

The investigation of the crime in question is over.

Considering the nature of offence against the applicant as well as the fact that the applicant is behind the Bars from 16.9.2020, further pre-trial detention of the applicant is not warranted and, therefore, the order.

The application is allowed.

The applicant/accused in Crime No. 345 of 2020 registered with Mufassil Police Station is directed to be released on bail on executing P.R. Bond of Rs. 20,000/- (Twenty Thousand) on furnishing sureties of the like amount to the



satisfaction of the trial court with the following conditions:-

(I) The applicant/accused should not extend any threat, promise of inducement to the persons acquainted with the facts of the accusation against him so as to dissuade him from disclosing such facts to the Court or to any police officer.

(II) The applicant/accused should not repeat the trial in expeditious disposal of the trial against him.

(III) The applicant to remove all office objections forthwith and the Registry to issue bail-writ as per this order only after removal of office objections by the applicant/accused.

(A. M. Badar, J)

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