

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24252 of 2021

Arising Out of PS. Case No.-216 Year-2020 Thana- KORHA District- Katihar

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RUPESH SHARMA @ RUPESH KUMAR SHARMA SON OF AKHILESH
SHARMA R/O FULWARIA CHOWK, P.S.- KORHA, DIST.- KATIHAR

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Rajeev Roy, Sr. Advocate Mr. Ratnakar Ambastha, Advocate
For the State	:	Mr. Ramchandra Singh, APP
For the Informant	:	Mr. Amrendra Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

5 15-12-2021

Heard learned counsel for the parties.

The petitioner has preferred this application for grant of regular bail in a case registered under sections 302 and 34 of the Indian Penal Code.

As per the prosecution case, the son of the informant was called and taken by the petitioner and one another on his motorcycle and soon thereafter he was found in an injured condition by the road side. On being taken to the hospital he was declared dead.

It is submitted by learned senior counsel for the petitioner that the petitioner has been falsely implicated in the case. Accepting the allegations in the FIR for the sake of argument, at best it is a case of last seen against the petitioner. Admittedly there are no eye-witness to the actual occurrence. It



is submitted that the deposition of the three prosecution witnesses have been brought on record in a supplementary affidavit filed on behalf of the petitioner and perusal of the same would show that they are also not eye-witness to the occurrence. The petitioner is in custody since 24.11.2020 and has no criminal antecedent. He undertakes to cooperate in the trial.

The application for bail is opposed by learned APP for the State and learned counsel for the informant. It is submitted by learned counsel for the informant that not only the petitioner is named in the FIR but there is direct allegation against him along with one another of having taken the son of the informant and of having killed him. The tower location of the mobile phone of the petitioner also confirms his being with the deceased son of the informant. The trial in the learned Court below has commenced and prosecution witnesses are being examined. Once the petitioner is enlarged on bail, he will not cooperate in the trial. In fact he has already started pressurizing the prosecution witnesses against deposing in the trial.

Having heard learned counsel for the parties and on going through the materials on record it transpires that in the postmortem report the cause of death is stated to be Neurogenic shock and hyperthermia shock due to head injury. There are no



eye-witness to the occurrence.

Having gone through the materials on record together with the petitioner having remained in custody since 24.12.2020 as also the deposition of the prosecution witnesses, the Court directs the petitioner to be enlarged on bail in connection with Korha P.S. Case no. 216 of 2020, S.T no. 55 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Sessions Judge, I/C, Katihar.

It is further directed that the petitioner shall cooperate in the trial and shall remain present in Court on each date of the trial. In case of the petitioner's absence on any date for reasons not to the satisfaction of the learned Trial Court or in case the learned Trial Court is of the opinion that the trial is being delayed due to conduct of the petitioner, the learned Trial Court will be at liberty to cancel the bail bond of the petitioner and take him into custody till conclusion of the trial.

(Partha Sarthy, J)

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