

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31155 of 2021

Arising Out of PS. Case No.-91 Year-2020 Thana- BALRAMPUR District- Katihar

Md. Mehraj Son of Md. Matlib Resident of Village - Bihpur Bairgachhi, P.S.-
Balrampur (Telta), District - Katihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Rupesh Kumar, Advocate
	:	Mr. Md. Helal Ahmad, Advocate
For the Opposite Party/s	:	Mr. APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 09-12-2021 Heard Shri Rupesh Kumar, learned counsel assisted by
his senior Md. Helal Ahmad, learned counsel for the petitioner and
learned A.P.P. for the State.

The petitioner seeks regular bail in connection with
Balrampur (Telta) P.S. Case No. 91 of 2020 dated 04.08.2020
instituted for the offences under Section 302 of the Indian Penal
Code.

Learned counsel for the petitioner submits that the
petitioner is in custody since 05.08.2020 and is a person with clean
antecedent.

Learned counsel for the petitioner submits that from
bare perusal of the allegation as alleged in the F.I.R. it would
manifest that the informant who is the wife of the petitioner
alleges that she was married to this petitioner 12 years ago and her
husband started ill-treating her right after the marriage, further on



30.07.2020 she was assaulted and thus she left her matrimonial home and went to her parents place leaving her three year old son Md. Samir. It is further alleged that on 04.08.2020, the informant came to know that the child has been killed by the father hence she along with her brother left for her matrimonial home and saw the dead body of the child lying in *verandah* and the petitioner was not at the home.

Learned counsel for the petitioner submits that the present F.I.R. has been instituted in fit of anger for the reason that the informant had left her matrimonial home and had gone to her parents place as there was some dispute between her and the petitioner. Learned counsel further submits that petitioner is the father of the deceased and no father would kill his own child without any reason. Further it is submitted that had the petitioner committed the occurrence then his effort would have to been to dispose of the dead body or to conceal but the dead body of the child was lying in the *verandah*. Learned counsel further submits that from perusal of the postmortem report it would manifest that no external injuries have been found on the body of the child, that in itself demonstrates that the child was not killed as alleged. Further, it is alleged that the informant realizing her mistake has also filed an affidavit in the learned court below, a copy of which has been submitted in the Court and the same has been taken on



record, stating that her son was playing near a pond and died because of drowning and the petitioner on that point of time was not in the house but had gone to the field for work.

Learned A.P.P. for the State vehemently opposes the prayer for regular bail of the petitioner and submits that there is allegation against the petitioner of killing his own child but is not able to meet the submission of the learned counsel for the petitioner that no external injury on the body of the child was found during postmortem.

Considering the fact that the petitioner is in custody since 05.08.2020, charge-sheet has been submitted in the case, the petitioner is a person with clean antecedent and wife of the petitioner has filed an affidavit as submitted by the learned counsel for the petitioner, let the petitioner above named be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand only) with two sureties of the like amount each to the satisfaction of learned A.C.J.M.-VI, Katihar in connection with Balrampur (Telta) P.S. Case No. 91 of 2020 subject to the condition as laid down under Section 437 (3) Cr.P.C.

(Satyavrat Verma, J)

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