

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35861 of 2020

Arising Out of PS. Case No.-136 Year-2020 Thana- DESARI District- Vaishali

Rahul Kumar @ Harihar Son of Shri Ganesh Mahto resident of village-
Nayagaon, Paschami, P.S.- Desari, District- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Malay Kumar Choudhary

For the Opposite Party/s : Mr. Akshay Lal Pandit, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 04-03-2021 Heard the learned counsel for the petitioner and the learned
A.P.P. for the State.

The petitioner seeks regular bail in connection with Desari
P.S. Case No. 136 of 2020 for the offence registered under
Sections 302, 201/34 of the Indian Penal Code.

According to first information report at about 8.00 P.M. on
03.06.2020, the informant saw that on a motorcycle, the petitioner
Rahul Kumar @ Harihar, the co-accused person namely Pujan
Kumar and in between them the deceased Niraj Kumar were
sitting and the accused persons were taking the deceased
somewhere on the said motorcycle. It is further alleged that on
the same night at about 10:00 P.M., one Suraj Rai got information
from co-accused-Rahul Kumar that Niraj Kumar is missing. In
the morning, the dead body of the said Niraj Kumar was found.
Hence, it was suspected that the petitioner and co-accused person
namely Pujan Kumar have committed murder of the deceased



victim person. The Doctor has found that the deceased had died on account of strangulation.

The learned counsel for the petitioner has submitted that a bare perusal of case diary would reveal that besides the informant there is no other eye witness to claim that the aforesaid three persons were seen together rather witness-Nelu Rai has stated that the deceased was seen on a motorcycle alongwith Sher Singh Son of Surendra Rai @ Bhonu. The case diary also does not reveal any motive for commission of the crime by the petitioner nor there is any enmity amongst them.

The learned counsel for the petitioner has further submitted that the petitioner is in custody since 06.06.2020. The investigation is complete and the charge sheet has already been filed, hence no prejudice would be caused to the prosecution in case the petitioner is granted bail especially on account of the fact that the petitioner has been roped in the present case merely on suspicion on the basis of last seen circumstance. It is further submitted that the similarly situated co-accused person has already been granted bail by a coordinate Bench of this Court vide order dated 08.01.2021 passed in Criminal Misc. No. 33887 of 2020.

Per contra, the learned counsel for the State has vehemently opposed the prayer for bail.



Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the petitioner and taking into account the materials available on record as also those available in the case diary, this Court finds that there is minuscule evidence in the case diary to connect the petitioner with the alleged occurrence and moreover the entire investigation has not revealed any motive for commission of the alleged crime by the petitioner apart from the fact that the petitioner is having a clean antecedent and is languishing in custody since 06.06.2020, hence I deem it fit and proper to direct for release of the petitioner herein on regular bail.

Accordingly, the petitioner, above named, is directed to be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Sub-Judge-XVI-cum-Additional Chief Judicial Magistrate-XV, Vaishali at Hajipur in connection with Desari P.S. Case No. 136 of 2020.

(Mohit Kumar Shah, J)

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