

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47823 of 2021**

Arising Out of PS. Case No.-639 Year-2014 Thana- BHAGALPUR KOTWALI District-
Bhagalpur

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RAJIV KUMAR @ BAUA @ BAUA KUNWAR Son of Niwas Kumar @ Lal
Kumar @ Lal Kunwar Resident of Village - Tetari, P.S.- Naugachhia, Distt.-
Bhagalpur.

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar, Advocate

For the Opposite Party/s : Dr. Indihar Kumari, APP

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**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER**

2 16-12-2021 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

Let the defects, as pointed out by the office, be
removed within four weeks of start of normal functioning of the
physical court.

Petitioner seeks bail in connection with Kotwali
(Barari) P.S. Case No. 639 of 2014 registered for the offences
punishable under Sections 364/34 of the IPC.

As per FIR, the father of the victim alleged that his
son Rahul Kumar @ Sameer Kumar Choudhary left his house
on 10.09.2014 at 9 A.M. by his Indigo Car and when he did not
return till late night, Saurav Kumar and Bachneshwar
Choudhary went in his search and near Nirankari Hotel, they



found Rahul Kumar along with Baua Kunwar, Prabhakar Choudhary and one person of village Makandpur eating and drinking in the hotel. Rahul Kumar rang the informant to bring ATM Card but the informant did not go there. In the next morning, the Car of Rahul Kumar was found on the bridge. The informant suspected that the petitioner and others might have killed Rahul Kumar.

Learned counsel for the petitioner submits that petitioner is innocent and has committed no offence and he has falsely been implicated in the present case. Learned counsel further submits that name of the petitioner is Rajiv Kumar, son of Niwas Kumar but in the FIR name of Baua Kunwar, son of Lal Kunwar has been mentioned. Learned counsel further submits that name of the petitioner has come on the basis of suspicion only. It is further submitted that co-accused Prabhakar Choudhary has been granted bail by a co-ordinate Bench of this court vide order dated 05.05.2015 passed in Cr. Misc. No. 4206 of 2015. Petitioner is in custody since 14.06.2021.

The learned Additional Public Prosecutor opposed the prayer of bail submitting that petitioner carries one criminal antecedent.

Considering the aforesaid facts and circumstances as



well as period of custody, let the petitioner, above named, 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 the learned Chief Judicial Magistrate, Bhagalpur in connection with Kotwali (Barari) P.S. Case No. 639 of 2014 , subject to the following conditions:-

1. Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

2. If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

3. And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of



bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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