

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50301 of 2021

Arising Out of PS. Case No.-34 Year-2020 Thana- SURSAND District- Sitamarhi

MD. ASHFAQUE S/o- MD. RAPHIK DARJI @ RAPHIK DARJI Resident
of Village- Parsa, P.S.- Sursand, District- Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Pushpendra Kumar Singh, Adv.
For the Opposite Party/s	:	Mr.Murli Dhar, APP
For the Informant	:	Mr. Ratnakar Ambastha, Adv.

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 27-10-2021 The present petition is by way of second attempt at the behest of the petitioner in connection with Sursand P.S.Case No. 34 of 2020 under Sections 302 and 201 of the Indian Penal Code inasmuch as the earlier prayer of the petitioner for grant of regular bail was rejected by this Court by an order dated 11.1.2021 passed in Criminal Miscellaneous No. 27465 of 2020.

The case of the prosecution in brief is that the brother of the informant left his house in the evening on the date of occurrence and in the next morning, he came to know that a dead body is lying in the field of one Yugal



Rai. When the informant proceeded towards the place of occurrence, he saw some blood stains on the pump set of one Bhulun Sah and further found the dead body of his brother lying in the field of Yugal Rai. Blood was oozing out from the eyes and ears of the brother of the informant with some strangulation mark on his neck.

The learned counsel for the petitioner has submitted that the petitioner is innocent, he is having a clean antecedent and he is languishing in custody since 12.2.2020. It is further submitted that the trial court has already framed the charges, however, on account of the prevailing situation due to Covid-19 Pandemic, the trial is not progressing, nonetheless, the fact is that there is no eye-witness to the incident and the petitioner has unnecessarily been dragged in the present case. Lastly, it is submitted that since the bail petition of a similarly situated co-accused person had been rejected by a coordinate Bench of this Court, the same had weighed upon this Court to reject the bail petition of the petitioner as well, however,



now, the said co-accused person has been granted bail by a coordinate Bench of this Court by an order dated 4.8.2021 passed in Criminal Miscellaneous No. 31936 of 2021 on the ground that no progress has been shown in the trial and moreover, the entire case is at best a case of circumstantial evidence.

Per contra, the learned counsel for the informant, Sri Ratnakar Ambastha, has vehemently opposed the prayer for bail and has submitted that since charges have been framed and the trial is going on, the petitioner should not be enlarged on bail.

Having regard to the facts and circumstances of the case and considering the fact that there is no progress in the trial and the case in hand, can at best be said to be a case of circumstantial evidence, apart from the fact that the co-accused person has already been granted the privilege of regular bail by a coordinate Bench of this Court vide order dated 4.8.2021 passed in Criminal Miscellaneous No. 31936 of 2021, I deem



it fit and proper to admit the petitioner to the privilege of regular bail.

Accordingly, the above named petitioner is directed to be enlarged on bail on furnishing bail bonds of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate 1st Class, Pupri, Sitamarhi, in connection with Sursand P.S. Case No. 34 of 2020.

(Mohit Kumar Shah, J)

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