

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37271 of 2020

Arising Out of PS. Case No.-295 Year-2019 Thana- MOHANIYA District- Kaimur (Bhabua)

Subham Kumar Singh, S/o Late Shambhu Singh, Resident of Village-Kurra,
P.S-Mohania, District-Kaimur at Bhabua.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner	:	Mr.Rajani Kant Pandey, Advocate
For the S t a t e	:	Mr.Atul Chandra,APP
For the Informant	:	None

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 23-02-2021 Heard learned counsel for the petitioner and the
learned APP for the State. None appears for the informant.

The petitioner seeks bail in connection with Mohania
P.S. Case No.295 of 2019 for the offence punishable under
Section 302/201 of the Indian Penal Code.

The prosecution case is based on recovery of dead
body of the informant's son.

It is submitted by the petitioner's counsel that there
is no eye-witness to the occurrence. The petitioner has no
criminal antecedents and happens to be nephew of the deceased.
His implication is based on the statement made by the *Mukhiya*
eight months after the occurrence, which is evident from
paragraph 60 of the case diary. The statement is to the effect that



he has seen the petitioner carrying his uncle on his shoulders on the date of occurrence. It is submitted that in spite of seeing the petitioner carrying his uncle and being present while the dead body was being recovered, it is shocking that no statement was given by the *Mukhiya* at that point of time and only eight months later, he chose to make the statement before the police. The entire case is based only on suspicion and it is a case of false implication, due to which the petitioner is in custody now since 20.08.2020.

Learned APP for the State has opposed the prayer for bail. It is submitted that the independent witnesses in paragraphs 82 and 83 of the case diary have also supported the prosecution case.

Considering the rival submissions, this Court would observe that all these statements have been recorded much later so they all claim to have seen the petitioner carrying the dead body of his uncle on his shoulders. This Court is thus inclined to allow the petitioner's prayer for bail.

Accordingly, 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, Kaimur at



Bhabua, in connection with Mohania P.S. Case No.295 of 2019,
subject to the following conditions:

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

This Court would expect that the petitioner's counsel would honour his undertaking in the instant proceedings regarding supply of the requisite court fee etc. within two weeks from the date he is called upon to do so by the office.

(Madhuresh Prasad, J)

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