

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.301 of 2021

Arising Out of PS. Case No.-1094 Year-2019 Thana- PHULWARISHARIF District- Patna

Nagesh Samrat, Son Of Suresh Pandey, R/o Village- Rupashpur Bhattha Par,
P.S.- Rupaspur, Distt- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Ashok Kumar Jha, Adv.
For the Opposite Party/s	:	Mr.Md. Arif, APP
For the Informant	:	Mr. Deepak Kumar Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 26-03-2021 Learned counsel for the petitioner undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner, learned counsel for the informant and Mr. Md. Arif, learned A.P.P. for the State.

Petitioner in the present case is seeking regular bail in connection with Phulwari Sharif P.S. Case No.1094 of 2019 registered for the offences punishable under Sections 363 and 365 of the Indian Penal Code and later on Sections 302, 201, 147 and 149 of the Indian Penal Code was also added.

Learned counsel for the petitioner submits that the petitioner is not named in the First Information Report. His name has transpired in the confessional statement of the co-accused namely Chaitu Kumar. He has been made accused in four other



cases which were lodged in connection with the alleged occurrence in which a crowd which was protesting against enactment of Citizenship Amendment Act and the NRC went violent. Prior to these cases he was accused in Kotwali P.S. Case No.134/2019 under Sections 323, 341, 342 and 325 of the Indian Penal Code. It is stated that he is on bail in all the cases.

Submission is that large number of persons under the banner of different political parties were protesting against the enactment of the citizenship amendment and the NRC and in course of that protest the crowd became violent and for the said incident different cases have been lodged by the police. Initially the F.I.R. in this case was lodged on the basis of a written complaint of the father of the deceased that his son was missing since 11.00 AM. He had come in rally at Tamtam Stand, Fulwarisharif.

It is submitted that the petitioner has been falsely implicated by the I.O. who has recorded a confessional statement of co-accused and involved several persons from a particular community. It is a case of over implication of accused.

Learned counsel for the petitioner submits that one of the co-accused similarly situated namely Ranjeet Chaudhary @ Ranjeet @ Ranjeet Kumar has been granted bail by a learned coordinate Bench of this Court vide order dated 11.01.2021 passed



in Cr.Misc.No.29734 of 2020, though the prayer for bail of another co-accused has been rejected by another learned coordinate Bench of this Court.

Learned counsel for the informant submits that the name of the petitioner has transpired in the confessional statement of the co-accused. The co-accused has named altogether 7 persons including the petitioner as those who had surrounded the son of the informant and had assaulted when he had entered in the lane of the house of the sister-in-law of the co-accused Chetan Paswan @ Chaitu. It is the Chetan Paswan, Sanoj Kumar and Deepak Mahto who have made the confessional statement. Learned counsel submits that according to confessional statement all of them had assaulted the deceased by brick, stone, lathi, danda and bat.

Learned APP for the State has opposed the prayer for regular bail of the petitioner. This Court has been informed that in the postmortem report two stab injuries and one head injury have been found on the dead body of the deceased. At the instance of Chaitu the dead body was recovered. His prayer for bail has been rejected in Cr. Misc. No. 31295 of 2020.

Having regard to the facts and circumstances of the case wherein this Court has noticed the submissions that the name of the petitioner has transpired in the confessional statement of the co-accused Chaitu Kumar and it is stated that at his instance the



dead body has been recovered, the alleged occurrence is said to have taken place when the deceased had entered in the lane of the house of the sister-in-law of co-accused Chetan Paswan @ Chaitu, the manner of occurrence as stated in the confessional statement is not corroborated from the postmortem report which shows two stab injuries and head injury and so far as the criminal antecedents are concerned, it is stated that the petitioner has been made accused in the five cases on general and omnibus allegations and all the five cases have been lodged in relation to the violence which had taken place in course of protest by people who went violent in course of protest, this Court having noticed the kind of materials and the fact that the petitioner is in jail in connection with the present case since 23.12.2019, one of the co-accused similarly situated has been enlarged on bail, investigation against the petitioner is complete and there is no submission on behalf of the State that the release of the petitioner at this stage is likely to result in tampering with the evidence or interfering with the course of trial, let the petitioner above named be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned A.C.J.M.-IXth, Patna in connection with Phulwarisharif P.S. Case No.1094/2019, subject to the condition as laid down under Section 437 (3) Cr.P.C. as under :



(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

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.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

