

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.38947 of 2020**

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

DEEPAK MAHTO S/o Late Dharichan Mahto R/o Village- Tamtam Parab,
P.S.- Phulwarisharif, District- Patna

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. Vijay Kumar Sinha, Advocate
For the Opposite Party/s	:	Mr. Rajeev Nayan, APP
For the Informant	:	Mr. Deepak Kumar Singh, Advocate

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

4 20-07-2021 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 learned A.P.P. for the State.

Petitioner in the present case is seeking regular bail in connection with Phulwarisharif 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 were also added.

Learned counsel for the petitioner submits that from the First Information Report itself it would appear that this petitioner is not named in the First Information Report, his name has transpired in the confessional statement of the co-accused namely,



Chaitu Kumar. In course of investigation it has come that a large number of persons under the banner of different political parties were indulged in carrying protest against the Citizenship Amendment Act and the N.R.C. In course of the protest, the crowd became violent and with regard to the said incident different cases have been lodged by police. Initially, in the present case, the F.I.R. was lodged by father of the deceased saying that his son had gone missing since 11.00 am after he came in rally at Tamtam Stand, Phuswarisharif.

Learned counsel further submits that the confessional statement of Chaitu Kumar, this petitioner and some other co-accused have been extracted by police in police custody. It has come in the confessional statement that altogether seven persons including this petitioner had surrounded the son of the informant and had assaulted him when he entered in the lane of the house of the sister-in-law of the co-accused Chaitu Kumar. The confessional statement of Chaitu Kumar has led to recovery of the dead body.

Learned counsel further submits that the co-accused Ranjeet Chaudhary @ Ranjeet Kumar, Vikash Kumar, Nagesh Samrat and Rahish Paswan @ Ravish Kumar have been granted bail vide different learned co-ordinate Benches of this Court in Cr. Misc. No. 29734 of 2020, Cr. Misc. No. 3570 of 2021, Cr. Misc.



301 of 2021 and Cr. Misc. 39146 of 2020. The petitioner has been remanded in this case on 21.01.2020 and since then he is in custody. He is accused in two other cases. Mr. Vijay Kumar Sinha, learned counsel for the petitioner has submitted that his oral instruction may be recorded that the petitioner is on bail in both the cases.

Learned counsel for the informant as well as learned A.P.P. for the State have opposed the prayer for bail of the petitioner. Learned counsel for the informant submits that in course of investigation police has extracted confessional statement of the co-accused Chaitu Kumar as well as that of this petitioner and one more co-accused and on the basis of the confessional statement of Chaitu Kumar and two other co-accused the dead body has been recovered. He has further informed that the prayer for bail of the co-accused Chaitu Kumar has been rejected by a learned co-ordinate Bench of this Court in Cr. Misc. No. 31295 of 2020 and since this petitioner had also made confessional statement and his confessional statement jointly with Chaitu Kumar led to recovery of dead body, the petitioner does not deserve privilege of bail.

Having regard to the facts and circumstances of the case wherein this Court has noticed in course of submissions that the name of the petitioner has transpired in the confessional statement



of the co-accused Chaitu Kumar and alongwith Chaitu Kumar, co-accused Sanoj Kumar and this petitioner have also made their confessional statements leading to recovery of the dead body, paragraph '26' of the case diary has been read over by learned counsel for the informant and it has been contended that this petitioner had also disclosed in the confessional statement about the dead body and therefore this case stands on similar footing with co-accused Chaitu Kumar whose prayer for bail has been rejected by a learned co-ordinate Bench of this Court. The submission being that those who have been granted bail either by this Court or by the learned co-ordinate Bench are the co-accused who had not confessed their guilt or that their confession had not led to the recovery of the dead body, this Court is persuaded to take a view that the case of the petitioner stands on similar footing with that of co-accused Chaitu Kumar whose prayer for bail has been rejected by a learned co-ordinate Bench. The prayer for bail of the petitioner is thus rejected in the present case. Let the trial be expedited.

The application stands disposed of accordingly.

(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'.

