

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1864 of 2021

Arising Out of PS. Case No.-448 Year-2020 Thana- MAJHAULIA District- West Champaran

Sanwar Khan aged about 23 years (Male) S/o Sawael Khan R/o village- Hat Saraiya, P.S.- Bairiya, Distt.- West Champaran

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr.Dhannjay Kumar No 2
For the Opposite Party/s :	Mr.Uma Shankar Prasad Singh
	Mr.Bimlesh Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 20-05-2021 Heard learned counsel for the parties through video conferencing.

The petitioner seeks bail in Majghaulia P.S. Case No. 448 of 2020 registered for the offence under Sections 302, 120(B)/34 the Indian Penal Code.

As per the prosecution case, on 26.06.2020 at about 9:00 PM (night), the son of the informant Subhash Yadav went to make payment of the land to the land-lord Lal Babu Srivastava and Ankit Srivastava by Bullet motorcycle, but he did not return till late night. On the next morning at about 10:00 AM, the informant received an information that a dead body is lying near a canal and when the informant reached there, he identified the dead body of his son Subhash Yadav. The



informant further alleged that all the FIR named accused persons with some unknown persons have committed the murder of his son under a conspiracy due to dispute regarding sale and purchase of the land.

Petitioner is not named in the FIR. The name of petitioner has come during course of the investigation on the confessional statement of co-accused Sujit Kumar. It is further submitted that save & except confessional statement of co-accused, there is no other material to show complicity of the petitioner with the aforesaid crime. It is further submitted that during course of investigation, in paragraph – 29 of the case diary, it has come that this petitioner was seen driving the vehicle in which the dead-body was being carried away and as such, so far as this petitioner is concerned, only Section 201 of the I.P.C. is made out, which is a bailable offence. Petitioner has got clean antecedent and he is in custody since 30.06.2020. Chargesheet has been submitted.

However, learned A.P.P. as well as learned counsel for the informant have vehemently opposed the bail application and it was submitted that counsel for the informant that in paragraph – 31, it has come that the alleged vehicle (Creta), which was used by the accused for disappearance of the dead-body was



found near Sagar Pokhra Servicing Center and this petitioner was arrested. In the vehicle, blood-stain was also found.

Considering the aforesaid facts and circumstances and the fact that save & except confessional statement of co-accused there is no other material to show complicity of the petitioner in the aforesaid crime, the bail application of petitioner is allowed. 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 learned Chief Judicial Magistrate, Bettiah, West Champaran in connection with Majhauria P.S. Case No. 448 of 2020 with further conditions:

“(i) Petitioner shall cooperate 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

(ii) 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.”

(Prabhat Kumar Singh, J)

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