

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.3599 of 2021**

Arising Out of PS. Case No.-498 Year-2019 Thana- NAUTAN District- West Champaran

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SUNIL KUMAR @ SUNIL KUMAR CHAUDHARY @ SUNIL
CHAUDHARY SON OF PRABHUNATH CHAUDHARY RESIDENT OF
VILLAGE - JHAKHARA, MANIYARI, P.S. - NAUTAN (JAGDISHPUR),
DISTRICT- WEST CHAMPARAN

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	: Mr.Sanjeev Kumar, Adv.
For the Opposite Party/s	: Mr.Ram Bilash Roy Raman, APP
For the Informant	: Mr. Bimlesh Kumar Pandey, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 11-08-2021 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 Nautan (Jagdishpur) P.S. Case No.498/2019 registered for the offences punishable under Sections 147, 148, 149, 447, 307, 302, 504 and 506 of the Indian Penal Code.

Learned counsel for the petitioner submits that the manner of occurrence as alleged in the First Information Report lacks credibility inasmuch as it would appear that according to

the informant himself he had stopped the petitioner when he was passing through the house of the informant with his tractor and trailer. The admitted case in the FIR is that the informant stopped this petitioner who was with his tractor and trailer and asked him to return the money. Learned counsel further submits that as per the allegation the petitioner had left his tractor and trailer at the door of the informant saying him that he would take back his tractor and trailer after returning his money in the morning but then it is alleged that during the night hours itself the petitioner along with 4-5 unknown persons came at the house of the informant and on reaching there the co-accused Krishnawati Devi ordered the petitioner and others to take back the tractor and trailer, the informant stopped them and thereafter in the alleged occurrence the brother of the informant was crushed to death.

Learned counsel submits that the informant and the petitioner are resident of two different villages and apparently when the petitioner was in the village of the informant, he was stopped and in the quarrel the alleged accident took place. In fact the vehicles in question were seized by the police on 24.12.2019 itself and a Sanha entry was made but no FIR was lodged.

Learned counsel further submits that the FIR was lodged on 26.12.2019 and it was sent to the learned court of the Chief Judicial Magistrate on 02.01.2021 which would be evident from the endorsement made at the top of the FIR.

Learned counsel further submits that after investigation police did not find sufficient materials to prosecute the petitioner under Section 302 I.P.C. and submitted the charge-sheet under Section 304A I.P.C. but later on learned C.J.M. differed with the police report and took cognizance of the offence under Section 302 I.P.C.

Learned counsel further submits that in the nature of the occurrence, the petitioner having remained in jail in connection with this case since 17.03.2020, investigation against him is complete but the trial is not likely to take place in near future, he deserves privilege of bail. The petitioner has otherwise no criminal antecedent.

Learned counsel for the informant as well as learned APP for the State have opposed the prayer for bail of the petitioner. Learned counsel submits that no doubt the alleged occurrence has taken place in the village of the informant but then there are witnesses to the effect that this petitioner had overrun the tractor on the brother of the informant and

informant had also received injury. The witnesses in the case are of course from the village of the informant.

Considering the facts and circumstances of the case, in the nature of the allegations noticed in the FIR, the manner of occurrence as alleged and that the occurrence has taken place in the village of the informant where admittedly the petitioner along with his tractor and trailer was passing on and then he was stopped by the informant and the police seized the vehicles which met the accident on 24.12.2019 but the FIR was lodged after two days and the same was seen by the learned C.J.M. seven days after lodgment of the FIR, the charge-sheet was filed under Section 304A I.P.C. though cognizance has been taken under Section 302 I.P.C., in the totality of the circumstance, the petitioner having remained in jail for over one year, this Court directs that 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 C.J.M., Bettiah, West Champaran in connection with Nautan (Jagdishpur) P.S. Case No.498/2019, 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'.