

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.8865 of 2021**

Arising Out of PS. Case No.-128 Year-2018 Thana- KHAJAULI District- Madhubani

Umesh Saday, Son of Shiv Lal Saday, Resident of Village- Marar Mushari,
P.S.- Khajauli, District- Madhubani.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Subhash Kumar Jha, Advocate

For the Opposite Party/s : Mr.Dinesh Singh, A.P.P.

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

5 18-08-2021 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 and Mr. Dinesh Singh, learned APP for the State.

The petitioner in the present case is seeking regular bail in connection with Khajauli P.S. Case No. 128 of 2018 registered for the offence punishable under Section 364/34 of the Indian Penal Code. He is in custody since 09.06.2020.

Learned counsel for the petitioner submits that as per the prosecution story, the son of the informant was missing since 15.07.2018 night but no information in this regard was given to the police station for seven days. The FIR has been lodged on

22.07.2018 alleging that, after a lot of search the informant came to know that (1) Umesh Saday, (2) Pradeep Saday and (3) Chulahi Saday were saying on 15.07.2018 that the son of the informant has become hero, they will abduct him and shall throw him in the Koshi canal after killing. Allegedly they were saying this at Matiyarwa Chauk where one Jeewach Saday who is a co-villager of the informant was present.

Learned counsel for the petitioner submits that the FIR was sent to the court of learned C.J.M. after a long time and it was seen on 07.08.2018 which shows the anti-dating of the FIR.

Learned counsel further submits that Jiwachh Sadai is a political person and he is an elected member of the Ward of the petitioner, the petitioner was protesting against him, therefore, the petitioner has been falsely implicated in this case. The witnesses in the case diary are only hearsay who claim that they heard it from Jiwachh Saday.

Learned counsel further submits that the prosecution case becomes suspicious because if it was known to Jiwachh Saday who is a co-villager, why he did not disclose it to the informant for seven days.

Mr. Dinesh Singh, learned APP for the State has

opposed the prayer for bail of the petitioner but considering the facts and circumstances of the case, the delay in lodgement of the FIR and the statement of the witnesses being hearsay, the petitioner has remained in jail for over one year and investigation against him is complete, this Court directs release of the petitioner above named 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. III, Madhubani in connection with Khajauli P.S. Case No. 128 of 2018, 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)

vats/-

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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'.