

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 1877 of 2022**

Arising Out of PS. Case No.-329 Year-2019 Thana- HUSSAINGANJ District- Siwan

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KAMESHWAR RAJBHAR @ KMESHWAR RAJBHAR Son of Late Sheo Prasad Rajbhar Resident of Village - Khanpur Khairathi, P.s.- Hussainganj, Distt.- Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr Sanjeet Kumar, Advocate

For the Opposite Party/s : Mr Parmanand Kumar, APP

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

4 23-03-2022 Heard learned counsel for the petitioner and learned Additional Public Prosecutor (for brevity, *APP*) appearing for the State of Bihar.

The petitioner seeks bail in Hussainganj Police Station (for brevity, *PS*) Case No 329 of 2019 dated 23.12.2019 instituted for the offence punishable under Sections 302, 201, 120B/34 of Indian Penal Code.

The informant's son left his home on 19.12.2019, never to return. Search was made. The dead body was recovered from a pond whereafter a First Information Report against 11 named persons, who are in-laws of the informant's son, has been lodged. The petitioner is one of the brothers-in-law of the victim. The implication is on the ground that all the



in-laws were nurturing grudge against the informant's son because he had solemnized intercaste marriage with the instant petitioner's sister.

Submission of the petitioner's counsel is that the prosecution case is based solely on suspicion. The victim has been missing for three days, yet no information was lodged. All the family members of the victim's wife have been made accused with general and omnibus allegation.

The learned APP has opposed the prayer for bail by submitting that deceased died due to asphyxia. Investigation has revealed that the petitioner was hostile towards the victim due to intercaste marriage, solemnized by the petitioner's sister.

The Court had earlier called for the report from the trial Court regarding the stage of trial. The same suggests that charge has been framed on 04.10.2021. Five prosecution witnesses are to be examined. However, the report does not disclose that any witness has been examined till date.

Having no criminal antecedent, as per statement made in the petition, the petitioner is in custody since 08.03.2020 (now more than two years). Earlier, his prayer for bail was rejected by this Court on 08.02.2021 in Cr Misc No 29085 of 2020 and later, the application for bail was disposed of by this



Court with liberty to renew the prayer for bail before the Court of Additional Sessions Judge III, Siwan, by order passed in Cr Misc No 56565 of 2021 on 15.12.2021.

Considering the rival submissions, period of custody, the fact that the petitioner has no criminal antecedent and there is no progress at the trial whatsoever, this Court is inclined to accept the submission of the petitioner's counsel for the purposes of grant of bail.

Having regard to the aforesaid facts, prayer for bail is allowed. Let the petitioner, above named, be released on bail on his furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Additional Sessions Judge III, Siwan in Sessions Trial No 32 of 2021, arising out of Hussainganj PS Case No 329 of 2019 dated 23.12.2019 subject to the following conditions:-

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his



bail bond will be liable to be cancelled.

Learned counsel for the petitioner is expected to honour his undertaking given in the instant proceedings today for depositing requisite Court fee and removing the defect (s), as pointed out, when called upon to do so.

(Madhuresh Prasad, J)

M.E.H./-

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