

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2847 of 2022

Arising Out of PS. Case No.-76 Year-2004 Thana- KESARIA District- East Champaran

Balindra Rai @ Balendra Rai S/O- Late Yogi Rai Resident Of Village-
Sundarpur, Malahi Tola, P.S.- Kesariya, District- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Prabhat Kumar

For the Opposite Party/s : Mr. Upendra Rana (APP)

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

4 21-11-2022 Heard Ld. counsel for the petitioner and learned
APP for the State.

The petitioner seeks bail in connection with
Kesariya P.S. Case No. 76 of 2004 corresponding to G.R.
No. 1236 of 2004, registered for the offences punishable
under Sections 302 and 201 read with section 34 of the
Indian Penal Code.

The prosecution case as emerging from the F.I.R.
is that the petitioner along with his associates took
informant's husband, who was a doctor, on the pretext of
treatment of one sick person. It is further alleged that near
the *Bathan*, the accused persons committed murder of the



victim by pressing his neck and concealed his dead body.

Ld. counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case. He further submits that as per the prosecution, there is no eye-witness to the alleged offence and whole case is based on suspicion and hear-say. He also submits that similarly situated co-accused person, namely, Lakhindra Rai has already been enlarged on bail by a co-ordinate Bench of this Court vide order dated 10.03.2011 passed in Cr. Misc. No. 4923 of 2011. He further submits that investigation of this case is complete and charge-sheet has already been submitted, and even charge has been framed.

The petitioner has been languishing in jail since 30.09.2021.

It is also stated in paragraph no. 2 of the petition that the petitioner has never moved before this Court for grant of anticipatory bail or regular bail.

It has further been stated in paragraph no. 3 that the petitioner has been made accused in five more cases.

However, the Ld. APP for the State vehemently



opposes the prayer of petitioner for bail.

Considering the aforesaid facts and circumstances, particularly similarly situated co-accused person has been enlarged on bail, the petitioner, above-named, is directed to be released on bail on his furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the Ld. Chief Judicial Magistrate, Motihari in connection with Kesariya P.S. Case No. 76 of 2004 corresponding to G.R. No. 1236 of 2004, on the following conditions:

(i) The petitioner will make himself available for interrogation by a police officer/court as and when required.

(ii) The petitioner will undertake that investigation/trial will not hamper on account of his absence or non-cooperation. He must be available to the police or the court whenever his presence is required.

(iii) The petitioner 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.

(iv) In case, it is brought to the notice of the court below that the petitioner has criminal antecedent other than the disclosed one, the learned court below shall cancel the bail bond of the petitioner after hearing him and getting satisfied that the petitioner has concealed his criminal antecedent despite his knowledge of the same.

(v) In case, it is brought to the notice of the court below that statement regarding previous bail petition is wrong, the learned court below shall cancel the bail bond of the petitioner.

The application stands allowed accordingly.

The learned counsel for the petitioner is directed to remove all the defects, if any, pointed out by the office within a period of one month and the Registry is directed to issue the certified copy of this order only after removal of office objections.

(Jitendra Kumar, J)

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