

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10247 of 2022**

Arising Out of PS. Case No.-378 Year-2021 Thana- RAFIGANJ District- Aurangabad

Santosh Kumar Son of Nagendra Kumar Resident of Village -Kajpa, P.S. -
Rafiganj, District - Aurangabad.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 11644 of 2022

Arising Out of PS. Case No.-378 Year-2021 Thana- RAFIGANJ District- Aurangabad

Satyendra Paswan Son of Basudeo Paswan Resident of Village - Amarpura,
P.s.- Rafiganj, Distt.- Aurangabad.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 10247 of 2022)

For the Petitioner/s : Mr.Shailesh Kumar Singh, Advocate

For the Opposite Party/s : Mr.Md. Matloob Rab, APP

(In CRIMINAL MISCELLANEOUS No. 11644 of 2022)

For the Petitioner/s : Mr.Ashok Kumar Singh, Advocate

For the Opposite Party/s : Mr.Dr.Mrityunjaya Kr.Gautam, APP

**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER**

5 20-12-2022 Heard learned counsel for the petitioners and learned
APP for the State.

Let the defect (s), as pointed out by the office, be
removed within a period of four weeks.

In the present case, the petitioners seek bail in
connection with Rafiganj P.S. Case No. 378 of 2021 registered for
the alleged offences under Sections 302 and 34 of the Indian Penal

Code.

As per prosecution case, the deadbody of the sister of the informant was recovered and the name of the petitioners transpired during investigation as the persons responsible for killing the sister of the informant.

Learned counsel for the petitioner Santosh Kumar submits that the petitioner is innocent and has been falsely implicated in this case merely on the basis of confessional statement of the petitioner Satyendra Paswan. Nothing incriminating has been recovered from the conscious possession of this petitioner or at his instance. There is no material on record to connect the petitioner with the alleged offence. Except for the confessional statement of the co-accused nothing has come up against this petitioner. The police has tried to implicate the petitioner on the basis of location of his mobile phone but the village of the petitioner is situated at the distance of 1.5 km from the place of occurrence and tower location is quite normal. There is no eye-witness to the alleged occurrence. The petitioner is not known to the co-accused Satyendra Paswan. He is neither a relative nor a friend of the said co-accused. The petitioner is in custody since 26.11.2021 and charge-sheet has been submitted. The petitioner has got no criminal history.

Learned counsel for the petitioner Satyendra Paswan

submits that the petitioner is innocent and has been falsely implicated in this case on the basis of his confessional statement but the same was recorded under force and coercion. There is no eye-witness to the alleged occurrence. None of the witnesses examined during investigation has named this petitioner. This petitioner has been apprehended only on suspicion. Learned counsel further submits that the articles said to be belonging to the deceased and said to be recovered from the house of the petitioner have not been put to any Test Identification Parade and hence their relationship with the deceased is not credible. The petitioner was not even last seen with the deceased nor was he seen near the place of occurrence either before or after the occurrence. The petitioner is in custody since 26.11.2021 and charge-sheet has been submitted.

Learned APP opposes the prayer for bail submitting that the names of the petitioners transpired during investigation and recovery of the belongings of the deceased have been made from the possession of the petitioner Satyendra Paswan.

Having considered the recovery of the belongings of the deceased from the petitioner no.2 **Satyendra Paswan**, I am not inclined to enlarge him on bail.

Hence, his prayer for bail is rejected.

However, considering the other facts and especially the fact that no recovery has been shown from this petitioner no.1 **Santosh Kumar** or at his instance and also taking into account the period of custody of the petitioner along with the submission of charge-sheet against him, he is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Aurangabad in connection with Rafiganj P.S. Case No. 378 of 2021, subject to the conditions mentioned in Section 437(3) of the Cr.P.C. and the following conditions:

- (i) One of the bailors will be a close relative of the petitioner no.1.
- (ii) The petitioner no.1 will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner no.1 will be liable to be cancelled by the court concerned.

At the same time, the learned trial court is directed to expedite the trial and conclude the same within a year.

(Arun Kumar Jha, J)

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