

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14087 of 2022

Arising Out of PS. Case No.-91 Year-2019 Thana- DUMRA District- Sitamarhi

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Arun Kumar, Son of Sri Devnarayan Singh, R/O Village- Bairichak, P.S.-
Masaurhi, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mrs. Vaishnavi Singh, Advocate
the Opposite Party/s : Mr. Md. Matloob Rab, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 12-07-2022 Learned counsel for the petitioner is permitted to
remove the defect(s), as pointed out by the office, within a
period of four weeks from today.

Heard Mrs. Vaishnavi Singh, learned counsel for the
petitioner and Mr. Md. Matloob Rab, learned APP for the State.

The petitioner seeks regular bail, who is in custody in
connection with Dumra P.S. Case No. 91 of 2019 registered for
the offences punishable under Sections 302/34 of the Indian
Penal Code. Later on, cognizance has been taken for the
offences under Sections 323, 302, 120B/34 of the Indian Penal
Code.

The prosecution case is based on the written report of
the informant alleging therein that on 06.03.2019, the police
came to his house and took up his son Gufran Alam and
disclosed that he is being taken away for interrogation. It is



further alleged that one of his co-villager, namely, Md. Taslim was also taken away by the police in the name of interrogation. It is further alleged that when the informant along with the other co-villagers reached Dumra police station, they could not get to know anything with regard to both the persons, who were taken by the police. Later on, on enquiry they came to know that his son Gufran and co-villager Taslim were murdered at Dumra police station by the police personnel.

It is submitted by the learned counsel appearing on behalf of the petitioner that the petitioner happens to be the A.S.I. of Dumra Police Station and though he was posted at Dumra P.S., but on the alleged date and time of occurrence he was not present on his duty, as is evident from the police diary. It is further submitted that in fact the deceased were found involved in various criminal cases and for their arrest a Special Team was constituted pursuant to the order of the Superintendent of Police, Sitamarhi and thereafter on his direction a raid was conducted and after their arrest the suspects Gufran and Taslim were taken into custody, vide Station Diary Entry No. 152/2019 dated 06.03.2019. It is further submitted that in course of interrogation suddenly their condition started deteriorating and they made complaint of restlessness,



accordingly they were brought to Sadar Hospital, Sitamarhi where they died during the course of treatment. It is further submitted that after a proper enquiry, with regard to the custodial death, investigation was also conducted and after completion of the investigation, charge-sheet has been submitted vide Annexure-4. From perusal of the charge-sheet, it appears that the investigation with regard to the petitioner has shown to be pending. Later on, in the further investigation, the investigating officer submitted Final Form No. 7 of 2022 dated 17.01.2022 showing the petitioner as innocent, the same has been brought on record as Annexure-5 to the present application. It is further submitted that though the charge-sheet has been submitted showing the petitioner as innocent, but prior to the filing of the supplementary charge-sheet, the court has taken cognizance under Sections 323, 302, 120B/34 of the Indian Penal Code against the petitioner also and as such the petitioner suo motu surrendered before the court below on 14.12.2021 and since then he is in custody. It is also submitted that one of the co-accused persons, against whom final form was submitted along with the petitioner shown to be innocent and against whom also cognizance was taken, have already been granted bail by learned coordinate Bench of this Court in Cr.



Misc. No. 62347 of 2019 vide order dated 01.10.2019 and one another co-accused has also been granted bail in Cr. Misc. No. 78803 of 2019 vide order dated 23.09.2020.

On the other hand, learned APP for the State opposes the bail application and submits that it is a case of custodial death wherein two persons have been done to death by the police personnel. It is also submitted that the complicity of the petitioner has transpired and charge-sheet has been submitted and on the basis of the same learned court below has taken cognizance. It is also submitted that now the charges have already been framed and altogether three witnesses have been examined.

Having considered the submissions made on behalf of the parties and taking into consideration the fact that after investigation, the police has submitted final form showing the petitioner as innocent, however, prior to the submission of the final form, the cognizance has been taken and this petitioner suo motu surrendered and he is in custody since 14.12.2021 and moreover other co-accused person, having similar allegation, has been granted bail by learned coordinate Bench of this Court and the petitioner was not the member of the Special Team, who



had taken away the deceased persons for interrogation, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-VIII, Sitamarhi in connection with Sessions Trial No. 261 of 2021, arising out of Dumra P.S. Case No. 91 of 2019, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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