

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11482 of 2022

Arising Out of PS. Case No.-219 Year-2021 Thana- MANIGACHI District- Darbhanga

Rajeev Kumar Jha @ Rajeev Jha (Male), aged about 35 years, Son Of Late Divakant Jha @ Sita Ram Jha R/O Village- Maun Behat, P.S.- Manigachi, Bajeetpur O.P., District- Darbhanga

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mrs. Namrata Mishra, Advocate Mr. Ratanakar Jha, Advocate
For the Informant	:	Mr. Sanjeev Kumar Jha, Advocate
For the Opposite Party/s	:	Mr. Uday Chand Prasad, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 29-08-2022 Heard Mr. Namrata Mishra, learned counsel along with Mr. Ratanakar Jha, learned counsel appearing on behalf of the petitioner, Mr. Sanjeev Kumar Jha, learned counsel appearing on behalf of the informant and Mr. Uday Chand Prasad, learned A.P.P. for the State.

Petitioner, who is in custody since 11.12.2021, seeks regular bail in connection with Manigachi P.S. (Bajeetpur O.P.) Case No. 219 of 2021 dated 01.11.2021 corresponding to G.R. No. 3127 of 2021 registered for offences punishable under Sections 147, 148, 149, 341, 323, 324, 307 and 302 of the Indian Penal Code.

Prosecution story in brief is that son of the informant



was murdered by the accused persons named in the FIR. The allegation in the FIR is against mob of 15-20 unknown persons. The specific allegation against the petitioner is that the deceased was last seen with the petitioner, who had called the deceased to attend a party.

Mrs. Namrata Mishra, learned counsel appearing on behalf of the petitioner submits that the allegation made against the petitioner is that the deceased had accompanied the petitioner to attend a party where the deceased along with the accused persons named in the FIR had tried to save their friend Rahul Kumar Mishra, who was in love relationship with the sister of one Abhijeet Jha of village Rashidpur. She further submits that the deceased and other two persons who had sustained injury in course of the alleged incidence namely Shailesh Jha and Rahul Kumar Mishra were taken to D.M.C.H., Darbhanga for treatment and in course of treatment, son of the informant died. Fardbeyan of victim Shailesh Jha was recorded at D.M.C.H., Darbhanga. It is further submitted that victim Shailesh Jha is the eye-witness of the entire incidence and he has not taken the name of the present petitioner to be involved in the crime. She has further submitted that in course of investigation, no material has been collected by the



Investigation Officer to prima facie establish the complicity of the petitioner that he was present at the place of occurrence and had participated in the alleged crime in any manner. Five criminal cases are pending against the petitioner but those cases are not of serious nature. Petitioner is in custody since 11.12.2021. On these grounds, petitioner seeks to be released on bail.

Mr. Sanjeev Kumar Jha, learned counsel appearing on behalf of the informant submits that petitioner was last seen with the deceased and the chain of incidence is complete. The mother of the deceased in course of investigation had disclosed the name of the petitioner that she had last seen the petitioner along with her son in her statement recorded under Section 161 Cr.P.C. before the Investigating Officer of the case. An independent witness has also supported the allegations made against the petitioner. He further emphatically stated that petitioner had actively participated in commission of murder of the son of the informant.

Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner. However, he submits that the independent witnesses have not seen the alleged commission of murder.



Having heard the rival submissions of the parties and considered the materials on record, on careful examination of the materials on record as well as the testimonies of the witnesses brought in course of investigation, it appears that police had recorded fardbeyan of one victim Shailesh Jha, who had also sustained injury along with the deceased while they had tried to save one Rahul Kumar Mishra. It came in course of investigation that said Rahul Kumar Mishra was in love relationship with the sister of Abhijeet Jha, who is of another village Rashidpur, which is the cause of the whole incidence. Rahul Kumar Mishra was being assaulted to which the petitioner and deceased had object and on the spur of the moment without any intention in which son of the informant Abhishek Jha died. The allegation against the petitioner is that he was last seen along with the deceased and his participation in the alleged incidence has not been supported by any of the eye-witnesses. Even one victim Shailesh Jha, who had sustained injury while he was undergoing treatment at D.M.C.H., Darbhanga recorded his fardbeyan did not name the petitioner. This Court on the basis of material and allegation made in the F.I.R. finds that the petitioner was last seen along with the deceased, specific allegation of assault is on other co-accused



persons, the petitioner above named has prima facie made out a case to be released on bail.

The Court below is directed to release the petitioner, above named, on bail upon furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate, Vth, Darbhanga in connection with Manigachi P.S. (Bajeetpur O.P.) Case No. 219 of 2021 dated 01.11.2021 corresponding to G.R. No. 3127 of 2021 subject to the following conditions:

(i) Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

(ii) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.

(iii) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(iv) If the petitioner is found involved in similar nature of offence, after his release on bail, the trial Court shall take steps to cancel his bail bond.

(v) The Court below is directed to verify the criminal antecedent of the petitioner as stated in paragraph



no. 3 of the bail application. If any other case is pending against the petitioner as what has been stated in paragraph no. 3, this order will loose its force automatically.

(vi) The petitioner will make his attendance before the concerned police station under which his house is located every fortnightly till conclusion of the trial and on any single default without any valid reasons on the part of the petitioner, his bail bonds shall be cancelled and the concerned SHO of the police station shall submit his monthly attendance report to the Superintendent of Police having jurisdiction.

(Purnendu Singh, J)

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