

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12703 of 2022**

Arising Out of PS. Case No.-345 Year-2020 Thana- GAYA MUFASIL District- Gaya

Biran Kumar @ Biru Chaudhary S/o Chandradeep Chaudhary Resident of
Village- Nauranga, P.S.- Muffasil, District- Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Praveen Kumar, Advocate.

For the Opposite Party/s : Mr. Ganesh Prasad Singh, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 05-07-2022 Learned counsel for the petitioner is permitted to
remove defect(s), as pointed out by the office, if any, within a
period of four weeks from today.

Heard Mr. Praveen Kumar, learned counsel for the
petitioner as well as learned Additional Public Prosecutor for the
State.

The application for grant of bail to the petitioner,
above named, who has been made accused and put behind the
bar in connection with Mufassil P. S. Case No. 345 of 2020
registered for the offences punishable under Sections 302, 201
read with 34 of the Indian Penal Code.

As per the prosecution case, it is alleged that on
15.09.2020 the cousin of the informant had gone to purchase
some articles for construction, by taking Rs. 35,000/-. On the



way, he was abducted by altogether nine F.I.R. named accused persons including this petitioner and thereafter, it is alleged that he was taken to bush, where he was brutally assaulted by the accused persons and when he became unconscious all the accused persons fled away from there. It is also alleged that when the informant reached there, he found his cousin brother was alive and on the way to the hospital the victim disclosed the name of the accused persons including this petitioner before his death.

Learned counsel appearing on behalf of the petitioner submitted that in course of investigation no material has come to show the participation of this petitioner in the alleged occurrence. It is further submitted that it has never been examined as to whether the victim was in a position of making any statement and inform about the alleged occurrence to the informant. It is a fact to be considered only in a course of trial. It is next submitted that during the course of investigation, it has come that none of the CCTV footage was available with the shop-keepers, which was shown the alleged incidence, though the investigating officer of this case has recorded in paragraph no. 26 that one shopkeeper made him available CCTV footage in which the accused persons were seen taking away the victim.



It is next submitted that the co-accused Akku Yuadav @ Manoj Kumar against whom there is similar allegation, has already been granted bail by learned co-ordinate Bench of this Hon'ble Court in Cr. Misc. No. 45955 of 2021 vide order dated 31.03.2022. A copy of which has been produced before this court and the same has been taken on record. It is lastly submitted that this petitioner is in custody since 12.11.2021 and moreover, the charge-sheet has been submitted after conclusion of the investigation.

On the other hand, learned APP for the State opposes the prayer for bail of the petitioner, however, he shown his inability to confront the fact that the other co-accused persons having similar allegation has already been granted bail by learned co-ordinate Bench of this Hon'ble Court, he further submits that the petitioner has been found involved in three other cases. In response to the aforesaid contention, learned counsel for the petitioner submits that the petitioner is on bail in all three cases.

Having considered the submissions made on behalf of the parties and taking into account the fact that the co-accused person having similar allegation has already been granted bail by learned co-ordinate Bench of this Hon'ble Court



and parity also demands similar treatment, in as much as the informant is not an eye-witness to the alleged occurrence and moreover, the statement of the deceased has not been heard by any independent person and this petitioner is in custody since 12.11.2021, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Gaya or his successor in connection with Mufassil P. S. Case No. 345 of 2020, subject to the condition that one of the bailors will be the close relative 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.



(v) The Court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancelling of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Harish Kumar, J)

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