

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38166 of 2021**

Arising Out of PS. Case No.-268 Year-2020 Thana- SAUR BAZAR District- Saharsa

Mithilesh Kumar Son of Prithwi Yadav @ Prithvi Yadav Resident of Village -
Galphariya, P.S.- Simribakhtarpur, District - Saharsa.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Diwakar Prasad Singh, Advocate

For the Opposite Party/s : Mr. A.G.

**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER**

4 11-07-2022 Let the defects, if any, be removed within four
weeks from today.

Heard Mr. Diwakar Prasad Singh, learned counsel
for the petitioner as well as learned Additional Public
Prosecutor for the State.

Petitioner seeks bail in a case registered in
connection with Sour Bazar P.S.Case No. 268 of 2020 for
the offences punishable under Sections 302, 363, 365, 34 of
the Indian Penal Code

Prosecution case is based upon a written report of
the informant alleging therein that three days prior an
altercation took place between the informant and their
agnates due to land dispute. Later on her husband namely,



Anil Yadav was found traceless. The informant suspected that all the FIR named accused persons abducted her husband and made disappeared.

It is submitted by the learned counsel for the petitioner that petitioner is not named in the FIR. He being only son-in-law of the deceased, his name has been implicated in this case on suspicion due to land dispute and altercation which took place between the petitioner and his father-in-law. It is submitted that save and except, the suspicion, no material has come during the course of investigation, which suggests the complicity of the petitioner in the said crime. It is next submitted that though on being arrested his confessional statement was recorded but the same under compulsion, having no evidentiary value in the eye of law. It is next submitted that the petitioner is in custody since 17.08.2020, moreover, investigation of crime is concluded and the charge sheet has been submitted.

On the other hand, learned counsel for the State opposed the bail application of the petitioner and submits that the name of the petitioner has come as conspirator that



he in collusion with other person caused the death of the deceased. He has also found involved in one another case.

Having heard the rival contentions of the parties and taking into consideration the fact that the petitioner is not named in the FIR and except suspicion there is no other material which suggests the complicity of the petitioner in the said crime and moreover, he is in custody since 17.08.2020, though the investigation of the crime is already concluded and the charge sheet has been submitted, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Saharsa in connection with Sour Bazar P.S.Case No. 268 of 2020, 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.

(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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