

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21930 of 2022

Arising Out of PS. Case No.-205 Year-2021 Thana- KARJA District- Muzaffarpur

Dilip Kumar, Son of Rajeshwar Ray, R/o Village- Raksha Bazar, P.S.- Karja,
District- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Jai Prakash Verma, Advocate
For the Opposite Party/s	:	Mr. Narsingh Tanti, APP
For the Informant	:	Mr. Anand Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 18-10-2022 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 Mr. Jai Prakash Verma, learned counsel for the petitioner, Mr. Anand Kumar, learned counsel for the informant and learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Kajra P.S. Case No. 205 of 2021 registered for the offences punishable under Section 302 of the Indian Penal Code.

As per prosecution case, it is alleged that on 14.10.2021, at about 11.00 AM, while the petitioner was abusing the mother of the informant, which was protested by the



informant. Whereupon, some altercation took place and the petitioner had threatened that he would kill her by crushing down under the truck. It is further alleged that soon thereafter the petitioner, who was working as driver, started the truck and rammed over her, due to which she died.

Learned counsel appearing on behalf of the petitioner submits that from the F.I.R., it would be evident that the occurrence took place on 14.10.2021, however the present F.I.R. was instituted on 16.10.2021 and in fact the father of the petitioner, who happens to be the informant in this case, on account of some annoyance after deliberation instituted this F.I.R. in order to teach a lesson to the petitioner. It is next submitted that in fact no such occurrence has taken place, but only on account of rash driving, the accidental death has been occurred and even as per the allegation, no case under Section 302 of the Indian Penal Code is made out, rather it is a case of 304(A) of the Indian Penal Code, as the death caused by rash and negligent driving, which is bailable in nature. He further submits that the petitioner, having fair antecedent, is in custody since 18.10.2021 and is ready to give undertaking that he will fully cooperate in the trial.

On the other hand learned counsel for the informant



does not contradict any submissions made on behalf of learned counsel for the petitioner and submits that it was a case of accidental death, on account of road accident.

Learned counsel for the State also opposes the bail application and submits that though some of the witnesses have supported the prosecution case, but other witnesses have also stated that it was an accidental death.

Regard being had to the submissions made on behalf of the parties and considering the nature of allegation and the statement of some of the witnesses that it was a case of accidental death, apart from period of custody, let the petitioner, named above, 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 Additional Chief Judicial Magistrate-V, (West) Muzaffarpur in connection with Kajra P.S. Case No. 205 of 2021, 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 physically 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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