

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25325 of 2022

Arising Out of PS. Case No.-218 Year-2021 Thana- GANDHIMAIDAN District- Patna

Prince Kumar, Son of Baidhnath Prasad @ Baijnath Prasad @ Vaidhnath Prasad, Resident of Postal Park, Chakki Mill Buddha Nagar, Gali No.- 01, P.S.- Kankarbagh, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Saket Anand, Advocate
For the Opposite Party/s	:	Mr. Amit Kumar Rakesh, APP
For the Informant	:	Mr. Jai Prakash Verma, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 29-08-2022 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. Saket Anand, learned counsel appearing on behalf of the petitioner, Mr. Jai Prakash Verma, learned counsel for the informant and learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with S.T. No. 644 of 2021, arising out of Gandhi Maidan P.S. Case No. 218 of 2021, registered for the offences under Sections 364, 302, 201 read with Section 34 of the Indian Penal Code.

The prosecution case is based upon the fardbeyan of the informant, who, inter alia, alleged that on 27.03.2021 at



about 2.00 P.M., co-accused Vikash Kumar and two unknown boys came at his motorcycle repairing shop and took away his son. At 10.00 P.M. a call has come from the mobile of Kaushal Kumar, the son of the informant, that his son met with an accident. On receipt of the information, the informant and his family members went to DMCH, Darbhanga and they found that his son was not admitted there, rather co-accused Avinash and the petitioner (Prince Kumar) were found admitted there. On interrogation, no information was obtained about his son Kaushal, rather he came to know that Avinash Kumar and Prince Kumar (petitioner) have met with an accident and the mobile phone and Pulsar motorcycle of Kaushal Kumar, bearing registration no. BR01DS 2181, were found in their possession. When the informant asked about the whereabouts of his son, co-accused Avinash denied knowing Kaushal and told that bike and mobile phone were brought by the Prince Kumar (petitioner). In the meantime, the Prince Kumar (petitioner) was referred to PMCH, whereupon the informant and his family members also rushed to PMCH and on query made by this petitioner, he also refused to recognize Kaushal and did not explain as to how he in possession of mobile and bike of his son. Just after some time a dead body was brought to PMCH by the police officials of



Kankarbagh police station and having seen the dead body, the informant identified the body of his son. The informant found several knife injuries over the body of his son.

Learned counsel appearing on behalf of the petitioner submits that there is no eye witness to the alleged occurrence and so far the petitioner is concerned, he has not been identified by the informant amongst the three persons, who had taken away the son of the informant. It is next submitted that that during the course of investigation save and except the suspicion, no material has come which suggests the complicity of the petitioner. However, the police after apprehending the petitioner recorded his self confessional statement, which has no evidentiary value in the eye of law. He further submits that co-accused Vikash Kumar, who had identified by the informant amongst the three persons while taking away his son, has already been granted bail by the learned coordinate Bench of this Court in Cr. Misc. No. 46590 of 2021 vide order dated 13.01.2022. It is lastly submitted that the petitioner is a student and he is in custody since 22.04.2021, having fair antecedent, and moreover the charges have already been framed.

On the other hand, learned counsel for the State as well as informant vehemently opposed the bail application and



submit that during the course of investigation the informant (father of the deceased) identified the petitioner and co-accused Avinash, who had come along with the co-accused Vikash Kumar and taken away his son, who went with them along with his Pulsar Motorcycle. It has also come that the petitioner and Avinash, who were found riding the motorcycle of Kaushal met with an accident at Darbhanga, at about 9.00 P.M. in the night of 27.03.2021 itself, which fact has also been corroborated by the video footage of the CCTV installed near the place of accident. He further submits that the mobile and Pulsar motorcycle of the deceased were recovered from the possession of the petitioner and co-accused Avinash, whose family reside in Darbhanga. It has also come during the course of investigation that the correct name and address have knowingly not been given by the accused persons in course of his treatment at Darbhanga. Learned counsel for the informant as well as State lastly submit that the post-mortem report would also suggest that the deceased have received five incised injuries, caused by sharp cutting weapon and the time elapsed since death was found to be 12-36 hours, as the post-mortem was conducted at 2.30 PM on 28.03.2021. They lastly submit that the confessional statement of the petitioner was also recorded and he confessed



his involvement and narrated the entire incidence as to how his son was taken away and killed by co-accused Avinash with his assistance.

Having regard to the submissions made on behalf of the parties and taking into consideration the materials collected during the course of investigation especially the recovery of Pulsar motorcycle and mobile phone from the possession of the petitioner and co-accused Avinash Kumar, just after the murder of the son of the informant and other circumstantial evidence including the post-mortem report, which suggests that the death has taken place within the period when the deceased was taken away by the three accused persons and the petitioner met with an accident, this Court is not persuaded to enlarge the petitioner on bail, for the present.

However, it is expected that the learned trial court will take all necessary measures to ensure conclusion of the trial, as early as possible.

(Harish Kumar, J)

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