

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23820 of 2022

Arising Out of PS. Case No.-296 Year-2020 Thana- PARSA District- Saran

Birendra Rai @ Birendra Ray Son Of Ramnath Rai R/O Village- Bedwaliya,
P.S.- Parsa, District- Saran (CHAPRA)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mukesh Kumar Singh, Advocate.

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

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 02-08-2022 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. Mukesh Kumar Singh, 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 Parsa P. S. Case No. 296 of 2020 corresponding to Sessions Trial No. 461 of 2020, C.I.S. Registration No. 461 of 2020 registered for the offences punishable under Sections 302, 328, 201 read with 34 of the Indian Penal Code.

As per the prosecution case, it is alleged that while



the informant had gone to her *Maika* on 28.08.2020 and on 30.08.2020, she received an information that her husband was killed by the accused persons administering him poison and the body was concealed.

Learned counsel appearing on behalf of the petitioner submitted that the petitioner is own nephew of the deceased and in fact, two years prior to the alleged occurrence as the deceased was issueless, he on account of love has executed gift deed in favour of Munni Devi wife of co-accused Wakil Rai and there had never been any dispute between the petitioner and the deceased. It is further submitted that on account of the aforesaid transfer of the property, the informant went upset and left her house and went to her *Maika* and started living there. The husband of the informant on account of frustration consumed some pesticides due to which the death has occurred. It is next submitted that there is no eye-witness to the alleged occurrence and moreover, there was no motive of the petitioner to kill his own uncle, who has executed a gift deed in favour of his brother. It is next submitted that co-accused Wakil Rai, who happens to be own brother of the petitioner having identical allegation has already been granted bail by this Hon'ble Court in Cr. Misc. No. 14868 of 2021 vide order dated



01.12.2021.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that from the impugned order, it appears that the witnesses have supported the prosecution case that the petitioner and the co-accused person out of greed might have killed the deceased.

Having considered the submissions made on behalf of the parties and taking into account the fact that the co-accused person having identical allegation has been granted bail by this Hon'ble Court and moreover, the petitioner is in custody since 12.02.2022, having a man of fair antecedent, apart from the fact that save and except suspicion, there is no material suggesting the complicity of he petitioner, 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 Additional District and Sessions Judge-XII, Saran at Chapra in connection with Parsa P. S. Case No. 296 of 2020 corresponding to Sessions Trial No. 461 of 2020, C.I.S. Registration No. 461 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.

(Harish Kumar, J)

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