

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35377 of 2021

Arising Out of PS. Case No.-64 Year-2020 Thana- DARAUNDA District- Siwan

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Kailash Ram S/o Late Rahimal Ram R/o village- Karsaut, P.S.- Daraunda,
District- Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Raghav Prasad, Advocate
For the Informant	:	Mr. Prashant Kumar, Advocate
For the Opposite Party/s	:	Dr. Ajeet Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 18-01-2022 Heard learned counsel for the petitioner, learned counsel for the informant and Dr. Ajeet Kumar, learned A.P.P. for the State through virtual court proceedings.

The petitioner seeks bail in connection with Daraunda P.S. Case No. 64 of 2020 instituted for the offences under Sections 302, 120B and 34 of the Indian Penal Code.

Learned counsel for the petitioner submits that he has filed a supplementary affidavit bringing on record the date of custody of the petitioner. It is submitted that the petitioner is in custody since 22.01.2021, is a person with clean antecedent and charge-sheet has been submitted in the case.

Learned counsel for the petitioner submits that informant in the F.I.R. alleges that he along with others was



returning after singing Holi song and his differently-abled son was behind them walking slowly. Thereafter the informant and others came to the house of Ram Krishna Singh, Mukhiya and started singing, thereafter it is alleged that the cow of the informant, being disturbed by the noise of the song, started fleeing and the informant ran to catch the cow and then he saw six named accused persons, including the petitioner, were trying to hang his son from a tree. It is further alleged that the petitioner along with Sarvajit were on the tree and were helping the accused in hanging the son of the informant accordingly the informant came back and informed his Holi singing group and they went to Phulwari, East of Kali Asthan where they saw the deceased hanging from a tree.

Learned counsel for the petitioner submits that from perusal of the allegation as alleged in the F.I.R. it would manifest that the same lacks motive for the occurrence i.e. the informant has not alleged any motive for the occurrence. Further it does not stand to reason that if the father saw the accused persons committing the offence then why he did not try to save his son as normal reaction is of trying to save and not to run away. Further, the fact that Mukhiya is brother of the informant is concealed in the F.I.R. and during the course of investigation



witnesses have stated that the deceased had drinks with driver of his uncle (Mukhiya) who assaulted the deceased and when the deceased complained to the Mukhiya about the driver, the Mukhiya also reprimanded and thrashed the deceased on account of which he felt humiliated and thus committed suicide. It is further submitted that Dhoopnath Yadav, one of the co-accused had instituted Daroda P.S. Case No. 234 of 2019 against the side of the of informant in which the petitioner and other accused had sided with him, thus this case was instituted with false allegation to coerce the petitioner and others to not support Dhoopnath Yadav. Further, it is submitted that it absolutely defies all logic, wisdom and human behaviour that six persons would kill a handicapped person at a place near Kali Asthan on the day of Holi, when villagers in large numbers are out of their house and chances of being witnessed, committing the crime is probable. Learned counsel further submits that it absolutely does not stand to reason that a person aged about 49 years with clean antecedent would have helped the accused in hanging the deceased.

Learned counsel for the informant and learned A.P.P. for the State vehemently oppose the prayer for bail of the petitioner and learned counsel for the informant submits that



informant is an eye-witness to the occurrence and he saw that this petitioner was on the tree helping the other accused persons in hanging the deceased but the learned counsel for the informant is not able to meet the submission of learned counsel for the petitioner that absolutely no motive has been alleged and that during the course of investigation it has come that the deceased had drinks with driver of his uncle and was humiliated when he was thrashed by the driver on which the uncle did not react rather reprimanded him based on which he committed suicide and also that co-accused had instituted the aforesaid F.I.R. against the side of the informant as aforesaid.

Considering the fact that the petitioner is in custody since 22.01.2021, charge-sheet has been submitted in the case and the petitioner is a person with clean antecedent, let the petitioner above named be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Shri R.S. Pal, learned Judicial Magistrate, Siwan in connection with Darauda P.S. Case No. 64 of 2020.

At this stage learned counsel for the informant submits that petitioner has concealed his criminal antecedent and he has instructions that petitioner has one antecedent of



Daronda P.S. Case No. 255 of 2019 on which the learned counsel for the petitioner submits that as per instruction of the person who had sworn the affidavit it has been mentioned that petitioner has got no criminal antecedent.

The court below is directed to ensure that the petitioner is released on bail only if he is not an accused in Daronda P.S. Case No. 255 of 2019.

(Satyavrat Verma, J)

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