

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36402 of 2021

Arising Out of PS. Case No.-9 Year-2021 Thana- PATAHI District- East Champaran

RAJAN KUMAR SINGH Son of Mr. Avinash Singh @ Avinash Kumar
Resident of Village - Jihuli, P.S.- Patahi, District - East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Mr. Pravin Kumar, Advocates.
For the State	:	APP
For the Informant	:	Mr. Vindhyachal Singh, Sr. Adv.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 04-04-2022 Heard Mr. Ajay Kumar Thakur, learned counsel for the petitioner, Mr. Vindhyachal Singh, learned senior counsel appearing for the informant and learned Additional Public Prosecutor for the State.

Petitioner seeks regular bail in connection with Patahi PS Case No. 09/2021 registered for the offence punishable under Sections 302/34 of the IPC.

As per the First Information Report, the uncle of the informant, namely, Krishna Murari Singh on 08.01.2021 at about 6:15 PM, had gone to his agricultural field for irrigation purpose but he did not return till late evening. However, the informant along with his cousin Amritesh Kumar went to the field to know the whereabouts of his uncle where they saw that near boring of Rajan Kumar Singh i.e., the petitioner, the



petitioner along with other accused persons were assaulting the informant's uncle by means of *Dabia*, spade etc., due to which he died.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in this case due to village dispute and the informant is not an eyewitness to the occurrence. He next submits that the occurrence has taken place on 08.01.2021 while the FIR has been registered after delay of about 12 hours at about 8:10 AM in the morning of 09.01.2021 whereas inquest report was prepared on 08.01.2021 at about 7:30 PM in the evening and the FIR has been lodged after the preparation of inquest report and after sending the dead body for postmortem. He further submits that during course of investigation, it has come to light that the informant was not present at the place of occurrence at the time of occurrence inasmuch as his mobile tower location was not showing near the place of occurrence at the time of occurrence and the tower location of the informant was found near the place of occurrence at about 9:21 PM of 08.01.2021 whereas occurrence has taken place between 6:00 PM to 7:00 PM. Learned counsel also submits that taking into account this aspect of the matter, a Co-ordinate Bench of this Court has granted anticipatory bail to the



similarly situated accused person, namely, Niraj Singh @ Niraj Kumar *vide* Cr. Misc. No. 44975/2021 (Annexure-3).

On the other hand, learned senior counsel for the informant submits that there is no delay in lodging of the FIR inasmuch as from perusal of the format of the FIR, it would be evident that information regarding the present occurrence was given to the police on 08.01.2021 itself at about 6:30 PM in the evening and it was the formal FIR which was registered by the police on the next date at about 8:10 AM which could be explained by the prosecution during course of investigation and no advantage may be given to the petitioner at this stage. He further submits that the FIR has been lodged before preparation of inquest report which would be evident that the police got the information regarding occurrence at about 6:30 PM on 08.01.2021 and at about 7:30 PM on 08.01.2021, the inquest report was prepared and the postmortem was held at about 10:35 AM on 09.01.2021 after lodging of the FIR by the informant who is an eyewitness and there is direction allegation against the petitioner and others that they assaulted brutally to the deceased by means of sharp cutting weapons. He further submits that the postmortem report corroborates the prosecution story inasmuch as 4-5 external injuries caused by sharp cutting weapons have



been found on the person of the deceased. One Amritesh Kumar who accompanied the informant and proceeded towards the agriculture field and claims to be an eyewitness has also supported the prosecution story during course of investigation. It is next submitted that the trial has now begun and one witness has also been examined.

Regards being had to the submissions made by the parties and taking into consideration the material on record and the fact that petitioner is one of the main assailants, there is direction allegation against him, the postmortem report corroborates the prosecution story, this Court is not holding a mini trial at this stage and during course of investigation the *prima facie* evidence has come against the petitioner, accordingly, the plea of parity taken by the petitioner is not tenable, hence, I am not inclined to grant regular bail to the petitioner at this stage. The same is, hereby, dismissed.

Petitioner, if so advised, may renew his prayer for bail after one year from today, if the trial does not record any substantial progress.

(Anil Kumar Sinha, J)

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