

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.27560 of 2022

Arising Out of PS. Case No.-102 Year-2020 Thana- WARISNAGAR District- Samastipur

Eklavya Kumar @ Raja Babu @ Raja Babu Sah, S/o Ramu Sah @ Ram Babu Sah R/o Village- Raghunathpur, P.S.- Warisnagar, Distt.- Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mukesh Kumar No.1, Advocate

For the Opposite Party/s: Mr. Akhileshwar Dayal, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 21-09-2022 Heard learned counsel appearing on behalf of the petitioner and learned APP for the State.

Let the defect(s) be removed within two weeks of the complete start of the physical Court in normal course.

Petitioner, who is in custody since 14.01.2021, seeks regular bail in connection with Warisnagar P.S. Case No. 102 of 2020 registered for offences punishable under Sections 302/201 of the Indian Penal Code.

Allegation in the F.I.R. is against one Rajeev Kumar Sah along with whom the son of the informant had gone for walking and thereafter, dead body of the son of the informant was found lying on the roadside near Kishanpur railway line.

Learned counsel appearing on behalf of the informant



submits that the petitioner is not named in the F.I.R. and he has been made accused in the present case in course of investigation, on the basis of C.D.R. as would appear from paragraph no. 52 of the case diary. Petitioner is co-villager and the C.D.R. report cannot be relied upon because the place of occurrence is near the house of the petitioner. Petitioner has not been put on T.I.P. Charge-sheet has already been submitted. One co-accused, who is named in the F.I.R. namely, Rajeev Kumar Sah has already been released on bail by a co-ordinate Bench of this Court vide order dated 30.08.2022 passed in Criminal Miscellaneous No. 64472 of 2021. On these grounds, petitioner seeks to be released on bail.

Learned A.P.P., for the State has opposed the prayer for grant of bail to the petitioner.

Considering the fact that petitioner is not named in the F.I.R. Petitioner belongs to the same village from where the dead body of the son of the informant was found. It appears to this Court that the C.D.R. report on which basis the petitioner has been made accused in the present case only establishes the fact that the petitioner was found near the place of occurrence from where the dead body of the deceased was found and suspicion has been raised on the said basis that he was also



involved in crime. In this regard law is well settled that suspicion howsoever strong cannot take the place of proof and for suspicion an under trial prisoner cannot be kept behind the bar even after completion of investigation. Prima facie it appears to this Court that petitioner has made out a case to be released on bail.

The Court below is directed to release the petitioner, above named, on bail upon furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Samastipur in connection with Warisnagar P.S. Case No. 102 of 2020 subject to the following conditions:

(i) Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

(ii) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.

(iii) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(iv) If the petitioner is found involved in similar nature of offence, after his release on bail, the trial Court shall



take steps to cancel his bail bond.

(Purnendu Singh, J)

Niraj/aditya

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