

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37359 of 2021**

Arising Out of PS. Case No.-21 Year-2021 Thana- KUNDWACHAINPUR District- East
Champaran

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SUNIL SAH @ SUNIL GUPTA S/o Maha Shankar Sah R/o Village- Kundwa
Chainpur, P.S.- Kundwa Chainpur, District- East Champaran (Motihari).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Raj Kishor Prasad, Adv. Mr. Ashok Kumar, Adv.
For the Opposite Party/s :		Mr. Upendra Kumar, APP
For the informant	:	Mr. Binod Kumar Singh, Adv. Mr. Nikhil Singh, Adv.

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**CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER**

3 08-02-2022 Heard learned counsel for the parties through video
conferencing.

The petitioner has preferred this application for grant
of regular bail in a case registered under sections 302, 376D,
149, 342, 450, 201 and 120B of the Indian Penal Code to which
sections 4 and 5 of the POCSO Act was added subsequently.

As per the prosecution case, the twelve year old
daughter of the informant was alone at home. It is stated that
while the son of the informant was returning home from Bazar
the accused Siya Ram Sah asked him not to go home. On
reaching his house, the son of the informant saw his sister on the
ground. He ran, shouting and searching for the informant. On



receiving information, the informant returned home and saw his daughter to have died and there was a mark around her neck. She was taken to the doctor. It is stated that Jai Prakash Sah started to say that an expense of Rs. 4-5 lacs would be incurred in the treatment. On the informant's son making an attempt to inform his relatives, it is stated that Hari Kishore Sah snatched his mobile phone. Thereafter Deepak Kumar Sah, Milan Sah, Vinay Sah, Ajay Sah, Ramesh Sah, Umesh Sah, Sunil Sah and Devendra Kumar Sah started to force the informant that he should cremate the body and that nobody should be told that she was murdered. They should be informed that she died as a result of cold. The informant and his son were also threatened. Awanish Kumar Sah took thumb impression of the informant on blank piece of papers. Thereafter it is stated by the informant that they forced the informant to take the body and got the same cremated. On returning, the informant was forced out of the house and sent to Nepal. He was threatened that he and his son would be killed if they returned.

It is submitted by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in the case. There is a delay of 12 days in lodging of the F.I.R. with no reasonable explanation for the same. There is no eye witness



to the alleged occurrence. Contradictory stands has been taken in the F.I.R. The petitioner has not been named by the informant or his son in their statement under section 164 Cr.P.C. Coaccused Ajay Sah has been enlarged on bail vide order dated 16.11.2021 passed in Cr. Misc. no. 38350 of 2021. The petitioner is in custody since 20.2.2021 and has no criminal antecedent. Chargesheet has been submitted in the case.

The application for bail is opposed by learned A.P.P. for the State and learned counsel for the informant. Learned counsel for the informant submits that the offence is heinous in nature, the delay was on account of threat given by the accused persons and the evidence was tampered with by the accused.

Having heard learned counsel for the parties and taking into consideration the facts of the case, the material that has transpired in course of investigation, the petitioner having remained in custody for over 11 months, chargesheet having been submitted in the case and grant of bail to the above named coaccused Ajay Sah, the Court directs the petitioner to be enlarged on bail in connection with Kundwa Chainpur P.S. Case no. 21 of 2021 on furnishing bail bond of Rs.10,000/ (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial



Magistrate, East Champaran.

(Partha Sarthy, J)

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