

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.37969 of 2021**

Arising Out of PS. Case No.-175 Year-2020 Thana- PARSA District- Saran

CHANDRIKA SINGH, Son of Late Utim Singh, Resident of Village- Bahar
Marar, P.S.- Parsa, District- Saran.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Nagendra Rai, Adv.

For the Opposite Party/s : Mr.Ajit Kumar, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

4 18-02-2022 Learned counsel for the petitioner undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Mr. Ajit Kumar, learned A.P.P. for the State.

Petitioner in the present case is seeking regular bail in connection with Parsa P.S. Case No.175 of 2020 registered for the offences punishable under Section 302 of the Indian Penal Code. He is in custody since 21.01.2021. The petitioner has got no criminal antecedent.

Learned counsel for the petitioner submits that as per the prosecution story the father of the informant and the informant himself were working in two adjacent fields on 11.06.2020 at around 8.30 am. It is alleged that the petitioner and his wife who were hiding, attacked and the petitioner caused injury with edge of



spade on the head of Prahalad Singh (since deceased) due to which he died on the spot. It is further alleged that in the said occurrence Ful Kumari Devi had caught hold of the legs and this petitioner having given a spade blow fled away. The land dispute is said to be the reason behind this occurrence. The informant further states in his written complaint that after performing the cremation of the dead body he was lodging the case on 12.06.2020.

Learned counsel for the petitioner submits that it is a case of false implication. It is submitted that no doubt the land dispute has been alleged to be the reason behind the occurrence but it is also well said that enmity cuts both ways meaning thereby that the said land dispute is the reason behind the false implication of the petitioner.

Learned counsel submits that the most astonishing part of this case is that the alleged occurrence is said to have taken place at 8.30 am during the summer season but there is no eye witness to the alleged occurrence. The son of the deceased says that he was present with his father but he does not talk of taking any effort to save his father. It seems highly improbable that the lady co-accused caught hold of the legs of the father of the informant and the informant could have remained a mute spectator. No injury has been caused to him, moreover the fardbeyan of the informant or anybody else was not recorded on 11.06.2020 at the place of occurrence.

Learned counsel further submits that in course of



investigation the case diary shows that it has been written with effect from 12.06.2020 but the inquest report was prepared on 11.06.2020 at 9.50 am by the S.H.O. of the police station at the spot. If he was at the spot on the same day immediately after the alleged occurrence then it is very suspicious as to why he will not record the fardbeyan of the alleged occurrence.

Learned counsel further submits that the dead body was sent for postmortem and in the postmortem report it shows one sharp cut injury and two other injuries caused by hard and blunt substance. The informant who claims to be present at the place of occurrence does not attribute any hard blunt assault given by the co-accused or the petitioner, therefore, very presence of the informant at the spot becomes doubtful.

Learned counsel submits that the FIR would show that the information with regard to the alleged occurrence is said to have been received in the police station on 12.06.2020 at 11.10 am and then the FIR was registered i.e. after more than 24 hours of the alleged occurrence. It is thus submitted that the case has been concocted with an afterthought, the petitioner who is working at Delhi and has in fact settled down by constructing a house, he had come to his village for a short while but has been falsely implicated, there is no eye witness much less any independent witness of the occurrence.

It is further submitted that the partition suit was going



on since 2004 and the cases between the co-sharers were old one, so far as this petitioner is concerned, he is having clean antecedent. He had no reason as to why he will indulge in such occurrence but he being the settled person in the family has been made accused in this case.

Learned APP for the State has though opposed the prayer for regular bail of the petitioner but on going through the case diary learned APP submits that the witnesses in the case diary are only the family members of the deceased, there is no eye witness and no independent witness.

Learned APP has further informed that the I.O. has though recorded the spot but there is no detail of the spot and therefore it cannot be substantiated as to how the petitioner and Ful Kumari Devi could have hidden themselves in the field during summer season. Learned APP further after going through the postmortem report submits that the postmortem was conducted on 11.06.2020 at 1.30 pm and it shows one sharp cut injury and other two injuries at the body caused by hard and blunt substance.

Learned APP further accepts that neither in the FIR nor in his subsequent statement the informant has attributed any hard and blunt substance assault against the petitioner or the co-accused. Admittedly, the informant has not suffered any injury in the said occurrence. Learned APP further confirms that this



petitioner has got no criminal antecedent and there is nothing of that sort in the case diary.

Having heard learned counsel for the petitioner and learned APP for the State, finding that the case is under Section 302 of the Indian Penal Code and the allegations are serious this Court has carefully appreciated the materials on the record and having noticed that the alleged occurrence is said to have been taken place on 11.06.2020 at 8.30 am, the inquest report has been prepared at 9.50 am but the fardbeyan of the informant or any other person was not recorded, the postmortem report shows one sharp cut injury and two other injuries by hard and blunt substance but the informant who claims to be present on the spot does not say a single word about who gave the hard and blunt substance assault on the deceased, the postmortem was conducted on the same day at 1.30 pm, still the FIR was not lodged and as per the FIR the information itself was given to the police station on 12.06.2020 at 11.10 am and then the fardbeyan was recorded, the informant himself accepts in the FIR that he was submitting the application after performing cremation of the dead body, on the subsequent day, the petitioner has no criminal antecedent and the partition suit between the two families were going on since long, the petitioner was not an accused in any of the cases, no motive may be inferred readily against the petitioner, in the nature of the



materials present on the record, this Court is inclined to release the petitioner on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned A.C.J.M.-IX, Chapra in connection with Parsa P.S. Case No.175 of 2020, subject to the condition as laid down under Section 437 (3) Cr.P.C.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

