

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28951 of 2022

Arising Out of PS. Case No.-545 Year-2020 Thana- KANKARBAG District- Patna

Upendra Kumar @ Painter @ Pentar, Son of Vijendra Prasad, Resident of
Postal Park, Chamar Toli, Police Station - Kankarbagh, District - Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Prashant Kashyap, Advocate

For the Opposite Party/s : Mr. Vinod Shanker Modi, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 29-08-2022 Heard learned counsel for the petitioner and learned
APP for the State.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioner seeks bail in connection with Sessions Trial No. 384 of 2020/ 702 of 2021 arising out of Kankarbagh P.S. Case No. 545 of 2020 registered for the alleged offences under Sections 302, 201 and 120B of the Indian Penal Code.

As per the prosecution case, the petitioner and other co-accused persons called out the brother of the informant and took him away. Thereafter, he did not return. On coming to know about recovery of the dead body, the informant and her



family reached there and they identified the dead body as that of her brother. The informant showed her suspicion that the petitioner along with co-accused persons under the conspiracy strangled him. The occurrence took place in the background of dispute over the money and old enmity.

The learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. The deceased was man of questionable character and he had several enemies as the deceased used to bring illegal liquor from Uttar Pradesh and used to do its business along with his two friends Amit and Vicky. When some dispute arose regarding money transaction, co-accused Vicky was murdered by the deceased. The whole prosecution story has been concocted. The deceased and the accused persons except co-accused Amit are residents of same locality and they were well known to each other prior to the alleged occurrence. The story of last seen is out and out a false story and the same has been introduced to drag the petitioner in the instant case. Learned counsel further submits that body of the deceased was found in an abandoned place and merely on suspicion petitioner has been made accused. Similarly situated co-accused Sachin Kumar @ Bambam has been granted bail by a Coordinate Bench of this



Court vide order dated 22.03.2022 passed in Cr. Misc. No. 44603 of 2021. The petitioner is in custody since 15.02.2021 and is having clean antecedent. Charge-sheet has been submitted against him and he has clean antecedent.

Learned APP opposes the prayer for bail submitting that the petitioner has been specifically named in the FIR.

Having regard to the submissions made hereinabove and considering the lack of any substantive material against the petitioner and the clean antecedent of the petitioner along with the submission of charge-sheet in the case and grant of bail to similarly placed co-accused, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of Court of learned Additional Sessions Judge-XXVth, Patna in connection with Sessions Trial No. 384 of 2020/ 702 of 2021 arising out of Kankarbagh P.S. Case No. 545 of 2020, subject to the conditions mentioned in Section 437(3) of the Cr.P.C. and the following conditions:

- (i) One of the bailors will be Shanti Devi, mother of the petitioner, who has sworn the affidavit in this case.



(ii) The petitioner will remain present on each and every date fixed by the court below.

(iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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