

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39772 of 2021

Arising Out of PS. Case No.-178 Year-2021 Thana- FORBESGANJ District- Araria

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Sanoj Rai @ Sanoj K. Roy S/o Gulab Chand Rai Resident of Village- East Kurhaili, Rai Tola, Ward No. -08, P.S.- Forbesganj, District- Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anil Prasad Singh, Advocate.

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

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

7 29-06-2022 Learned counsel for the petitioner is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Anil Prasad Singh, learned counsel for the petitioner as well as learned Additional Public Prosecutor for the State.

The application for grant of bail to the petitioner, above named, who has been made accused and put behind the bar in connection with Forbesganj P. S. Case No. 178 of 2021 registered for the offences punishable under Sections 302 and 201 read with 34 of the Indian Penal Code.

As per the prosecution case, it is alleged that on



27.02.2021, the son of the informant aged about eleven years went to participate in a marriage ceremony, when he did not return in the night the informant tried to trace out his son and when he did not find him, he lodged a *sanha* on 02.03.2021 about missing of his son. It is further alleged that during search, one Md. Samshad disclosed that on 27.02.2021 after marriage ceremony while he along with the deceased were returning to their house, in the meantime, this petitioner intercepted them and shown a knife due to which he scared and fled away from there. It is also alleged that on the disclosure of Md. Samshad, the dead body of the deceased was found near a pond hiding in garbage.

Learned counsel appearing on behalf of the petitioner submitted that with regard to the occurrence, which was taken placed on 27.02.2021 a *sanha* was lodged on 02.03.2021 and this substantive F.I.R. has been lodged on 07.03.2021 with an absurd story that one Md Samshad has disclosed the entire incidence. As per the F.I.R. the person, who disclosed the entire incidence does not appear to be an eye-witness to the alleged occurrence as he fled away from the place of occurrence. It is further submitted that the prosecution story appears to be wholly unbelievable and absurd that a person, who



is knowing the entire incidence kept mum for a pretty long time of eight or nine days. It is next submitted that as per the prosecution case, it is alleged that the deceased was inflicted knife blow but body of the deceased was examined and from the report of skeleton examination, it is evident that no ante mortem cut or fracture was found present over available exhibits. On the basis of the skeleton examination report, the learned counsel for the petitioner submits that this report falsifies the entire prosecution case. It is further submitted that during the course of investigation, it has come that the petitioner had one sided love affair with the sister of the deceased and due to which this occurrence might have taken place. It is lastly submitted that this petitioner has fair antecedent and moreover, the investigation of the crime is completed and the charge-sheet has been submitted.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that friend of the deceased Md. Samshad, who has also later on, been made accused in this case has disclosed that this petitioner has committed the murder of the deceased.

Having considered the submissions made on behalf of the parties and taking into account the fact that prima facie



the prosecution story appears to be absurd that a person, who being friend of the deceased knowing the entire facts, has disclosed the incidence after eight or nine days in as much as this petitioner is in custody since 09.03.2021 and moreover, the investigation of the crime has already been completed and charge-sheet has been submitted apart from that this petitioner has fair antecedent and the skeleton examination report does not support the prosecution case, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Araria in connection with Forbesganj P. S. Case No. 178 of 2021, subject to the condition that one of the bailors will be the close relative of the petitioner with further conditions which are as follows:-

- (i) The petitioner will cooperate in conclusion of the trial.
- (ii) He will remain present on each and every date of trial till disposal of the case.
- (iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.



(iv) In the event of default of two consecutive dates
without any cogent reason, his bail bonds will
liable to be cancelled.

(Harish Kumar, J)

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