

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30568 of 2022**

Arising Out of PS. Case No.-57 Year-2021 Thana- KURSAILA District- Katihar

BIBHASH KUMAR @ VIBHASH KUNAR S/O SHEKHAR MANDAL R/o
Purvi Muradpur, Majdiya, P.S.-Kursela, Distt.-Katihar

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sanjeev Kumar Singh, Advocate
For the Opposite Party/s	:	Mr. Binod Kumar, A.P.P.
For the Informant	:	Mr. Bimal Kumar, Advocate

**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER**

3 22-12-2022 Heard learned counsel for the petitioner, learned counsel
for the informant and learned A.P.P. for the State.

Let the defect(s), if any, be removed within a period of
four weeks.

The petitioner apprehends his arrest in a case registered
for the offences punishable under Sections 302/34 of the Indian
Penal Code.

The informant alleges that on 18.04.2021 when her
brother was studying at her home the petitioner along with accused
persons called him from the house thereafter his brother was killed
on account of previous enmity and his dead body was thrown near
the HP Petrol Pump where one of the staff of the HP Petrol Pump
saw the body of the brother and not the accused including the
petitioner and accordingly informed the informant. When the
informant along with her husband and villagers and Panchayat



people came to the place of occurrence they saw the dead body of the informant's brother was lying.

Learned counsel for the petitioner submits that petitioner is a person with clean antecedent and has been falsely implicated in the present case. It is further submitted that the date of occurrence is 18.04.2021 and the FIR was instituted on 22.04.2021. It is next submitted that in the FIR it has been very wisely concealed that the staff of the HP Petrol Pump is the relative of the informant. It is also submitted that no one was apprehended at the place of occurrence merely based on suspicion since the brother of the informant had accompanied the petitioner and the accused persons they came to be implicated in the present case. It is further submitted that it absolutely does not stand to reason that as to why the accused persons including the petitioner would have killed the brother of the informant and thereafter would have thrown his dead body near the petrol pump where the relative of the informant was working and thus would have created evidence against themselves. This amply demonstrates that the delay in instituting the FIR was utilized to implicate the petitioner and the accused persons by way of afterthought. Learned counsel next submits that if the brother of the informant had any apprehension with the accused persons including the petitioner then he would not have accompanied them rather even the



informant would not have allowed her brother to accompany the accused persons including the petitioner. Learned counsel also submits that during the course of investigation at para 35 and 45 of the case diary, it has come that the deceased along with the petitioner and Chhotu Kumar were triple riding a bike and while going to attend the marriage met with an accident in which Chhotu Kumar and the petitioner also got injured and the deceased received fatal injury leading to his death. Learned counsel further submits that even the postmortem report also corroborates the theory of accident as the wound found on the body of the deceased are lacerated and in the nature of abrasion. Learned counsel next submits that Chhotu Kumar was arrested during the course of investigation but he was enlarged on regular bail on 22.09.2022. It is also submitted that bail is bail and there is no difference between anticipatory bail and regular bail. In the sense that bail is granted only when the Court prima facie is satisfied that no material has transpired during the course of investigation connecting the accused with the offence. Learned counsel, thus, submits that Chhotu Kumar who was taken into custody was granted regular bail by this Court by order dated 22.09.2022 in Cr. Misc. No. 34221 of 2022. It is further submitted at the cost of repetition that the accident took place near the petrol pump where the relative of the informant works and he was well aware of the fact that the



death of the deceased occurred on account of accident but the delay in instituting the FIR was utilized by way of afterthought to implicate the petitioner and the accused persons.

Learned A.P.P. for the State and learned counsel for the informant opposed the prayer for anticipatory bail of the petitioner. Learned counsel for the informant submits that Chhotu Kumar has been granted regular bail, as such, parity should be maintained. It is further submitted that it is a false submission on part of the petitioner to submit that the worker at the petrol pump who had seen the occurrence is related to the informant when there is no relationship between the informant and Santosh Kumar who had seen the occurrence rather Santosh Kumar is a co-villager, as such, it cannot be presumed that Santosh Kumar falsely implicated the accused persons.

Be that as it may, the Court is not inclined to extend the privilege of anticipatory bail to the petitioner in connection with Kursela P.S. Case No. 57 of 2021 pending in the Court of learned Chief Judicial Magistrate, Katihar/successor Court.

Hence, prayer for anticipatory bail is rejected.

(Satyavrat Verma, J)

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