

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31287 of 2022

Arising Out of PS. Case No.-336 Year-2020 Thana- RAHUI District- Nalanda

Vijay Yadav, Son of Late Prayag Yadav, R/O Village- Bhagan Bigha, P.S.-
Rahui, District- Nalanda

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Arun Kumar, Advocate

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

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 21-07-2022 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

Heard Mr. Arun Kumar, learned counsel for the petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Sessions Trial No. 547 of 2021, arising out of Rahui (Bhagan Bigha) P.S. Case No. 336 of 2020, for the offences punishable under Sections 302/328/34 of the Indian Penal Code.

As per prosecution case, it is alleged that the brother of the informant was engaged in business with the co-accused Kosum Yadav and Bablu Yadav. At about 6.00 P.M. on 21.09.2020, the informant received an information that his



brother was lying on the side of the road and on reaching the place of occurrence, he was taken to the hospital where the doctor declared him dead.

It is submitted by the learned counsel appearing on behalf of the petitioner that from the F.I.R. it is evident that save and except the suspicion there is no allegation alleged against the petitioner. It is further submitted that as the father of the petitioner, namely, Prayag Yadav, was done to death, for which Rahui P.S. case no. 152 of 2007 was lodged, in which one of the brother of the informant, namely, Bholi Yadav, was made accused and hence the name of the petitioner has been implicated in the present case with an oblique motive. It is next submitted that during the course of investigation no material has found against the petitioner, which resulted into submission of final form showing the petitioner as innocent and he was not sent up for trial. However, differing with the final form, the learned court below has taken cognizance. It is also submitted that co-accused Kosum Yadav and Bablu Yadav, against whom, charge-sheet has been submitted, have already been granted bail in Cr. Misc. No. 40609 of 2021 and Cr. Misc. No. 46049 of 2021 vide order dated 22.04.2022, the copy of which has been brought on record by way of Annexure-3 to this application. It is



also submitted that even during the course of post-mortem, no external injury has been found on the body of the deceased and further referring to the contents of the F.S.L. report it is submitted that no poison and other alkaloids was found in the body and only ethyl alcohol, which is the chief intoxicating ingredient of all alcoholic beverages was found. It is lastly submitted that the petitioner is in custody since 21.02.2022 having fair antecedent.

On the other hand learned APP for the State opposes the bail application, however, he shown his inability to confront the fact that similarly situated persons named in the F.I.R. have been granted bail by the learned coordinate Bench of this Court.

Having regard to the submissions made on behalf of the parties and taking into consideration the fact that during the course of investigation no material has come, which resulted into submissions of the final form showing the petitioner as innocent and not sent up for trial, apart from the fact that other co-accused persons named in the F.I.R., having identical allegation, have already been granted bail by the learned coordinate Bench of this Court, let the petitioner, named above, 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 Additional Sessions Judge-II, Nalanda at Bihar Sharif in connection with Sessions Trial No. 547 of 2021, arising out of Rahui (Bhagan Bigha) P.S. Case No. 336 of 2020, subject to the condition that one of the bailors will be the close relatives 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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