

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32095 of 2022

Arising Out of PS. Case No.-105 Year-2021 Thana- JADOPUR District- Gopalganj

SHIV BAITHA S/o Late Horilal Baitha Resident of Village - Babu Vishunpur
Malahi tola, P.S. - Jadopur, District - Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dhramveer

For the Opposite Party/s : Ms.Veena Rani Prasad

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 26-08-2022 The learned counsel for the petitioner is directed to remove all the defects pointed out by the Stamp Reporter within one month.

Petitioner seeks regular bail in a case registered for the offences punishable under Sections 302, 365 of the Indian Penal Code.

As per allegation on the alleged date and time of occurrence, deceased went with the petitioner for work but did not return back and his mobile was found switched off when his wife tried to contact him thereafter, she went to houses of her relatives but she failed to trace him out and when the informant went to the house of the petitioner she saw her husband's cycle kept in his house.

The main submissions advanced by Sri Dhramveer, the learned counsel for the petitioner are that petitioner has got clean antecedent and has been languishing in jail since 18.7.2021 and



during course of investigation, no evidence has come out against the petitioner to connect him with the alleged crime.

Ms. Veena Rani Prasad, learned APP appearing for the State has opposed the prayer for bail.

Heard both sides and perused the FIR as well as post mortem report annexure 3 submitted by the petitioner's counsel. As per allegation made in the FIR, deceased went with the petitioner and thereafter he did not return and his mobile phone was found switched off when his wife tried to contact him. During course of investigation, a dead body was found and same was sent for post mortem examination and report of the said examination goes to show that said dead body was of an unknown person whose age is mentioned as 20 years in the post mortem report while in the FIR wife of deceased disclosed age of the deceased as 48 years and time and date of death which is mentioned in the post mortem report is not tallying with the date of missing of the deceased as mentioned in the FIR. It appears that the police have made the petitioner accused mainly on the basis of last seen as well as finding the dead body of unknown person but the details mentioned in the post mortem report with regard to age and time of death of the deceased person completely go against the details mentioned in the FIR. Petitioner has been languishing in jail since 18.7.2021 having clean antecedent and as per statement made in the petition, investigation has been completed against him.



Considering these facts, in the opinion of this court, petitioner deserves privilege of bail. Let the petitioner be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the Sessions Judge, Gopalganj in Sessions trial no. 379/2021 arising out of Jadopur P.S Case No. 105 of 2021 on the following conditions:-

(1) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court below and shall remain physically present as directed by the Court below and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

(2) If the petitioner tampers with the evidence or the witnesses, in that case the prosecution will be at liberty to move for cancellation of bail.

(3) One of the bailers shall be close relative of the petitioner who has sworn affidavit in this miscellaneous petition.

(Shailendra Singh, J)

s.hassan/-

U		T	
---	--	---	--

