

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35011 of 2022

Arising Out of PS. Case No.-134 Year-2021 Thana- CHIKSAURA District- Nalanda

Awadhesh Prasad Son of Vijay Prasad Resident of Village - Kusaita Naya
Tela, P.S.- Chiksaura in the Distt. of Nalanda.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. N. K. Agrawal, Sr. Adv.
	:	Mr. Braj Nandan Kumar Tiwary, Adv.
For the Opposite Party/s	:	Mr. Jagdhar Prasad, APP.
For the Informant	:	Mr. Shyamal Prakash, Adv.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

3 19-10-2022 Let the defect(s), if any, be removed within two weeks
from today.

Heard learned counsel for the petitioner and learned
A.P.P. for the State as well as learned counsel for the informant.

The petitioner seeks regular bail in connection with
Chiksaura P.S. Case No. 134 of 2021, lodged under Sections
302, 201/34 of the Indian Penal Code.

As per prosecution case, the informant has alleged
that when he was in his Mobile shop then his cousin brother has
immediately called him at house, when informant reached there,
he got informant that his son aged about 6 years lie in the
Banswadi. The informant immediately reached there and saw
that bleeding from the neck of his son is going on and his son
was died. Informant disclosed that on 30.12.2021 his son
returned from school to house at 1.30 and had taken lunch,

thereafter went outside the house for playing, thereafter, this event has taken place. It has been claimed in the F.I.R. that some unknown person has killed his son, thereafter, the present case has been lodged against unknown.

Learned counsel for the petitioner submits that petitioner is innocent and has committed no offence. He further submits that petitioner is a man of clean antecedent, charge sheet has already been filed in this case and he is in custody since 19.02.2022. Learned counsel for the petitioner further submits that, in the case diary, there are 3 witnesses who are alleged to claim that they have seen the petitioner in suspicious condition and out of 3 witnesses, 2 witnesses are the cousin sister-in-law (*Bhaujai*) of informant. He categorically submits that when the witness Ranju Devi and Dhanti Devi have seen the accused at the place of occurrence as they claim in paragraph no.62 & 63, then the name of petitioner must be figured in the F.I.R. because all the persons are co-villagers and relative also. Learned counsel for the petitioner further submits that there is no eye witness of the occurrence, rather the suspicion has been casted upon the petitioner that he has committed the crime.

Learned counsel for the State opposes the prayer for

bail and submits that it is true that there is no eye witness but it is also true that, 3 witnesses have intimated that they have seen the present petitioner going near the place of occurrence.

Learned counsel for the informant vehemently opposes the prayer for bail and submits that the informant has narrated in the case diary that the petitioner has visited to his Mobile shop and demanded one Mobile, upon denial he has threatened him for consequences.

In response, learned counsel for the petitioner submits that if it is so, then this statement has to be narrated in the F.I.R., rather at subsequent stage during investigation but he has not narrated anything before the Police and, therefore, it may be treated as an afterthought.

Upon specific query that whether charge has been framed in this case or not, learned counsel for the petitioner submits that charge has already been framed. Progress report of trial has also received, in which it has been stated that 2 witnesses have been examined.

In the present facts and circumstances of this case and the submissions made above, let the petitioner above named, be granted 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 1st A.D.J. Hilsa, Nalanda in connection with Chiksaura P.S. Case No. 134 of 2021, subject to the conditions as laid down under Section 437(3) of Cr.P.C. with other following conditions:

A. The petitioner shall support in trial and shall appear physically before the lower court on each and every date fixed, in case of non-appearance for two consecutive dates without sufficient cause, shall be resulted into cancellation of his bail bond.

B. One of the bailors shall be close relative who shall file affidavit before the court about his relationship with the petitioner.

C. The petitioner shall file an affidavit at the time of furnishing of bail bond that he shall not involve in such criminal activity during the continuance of present bail bond, violation of this condition shall be resulted into cancellation of his present bail bond.

With this observation, the bail application stands allowed.

(Dr. Anshuman, J.)

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