

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.44127 of 2021**

Arising Out of PS. Case No.-665 Year-2020 Thana- BEGUSARAI MUFFASIL District-  
Begusarai

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MRITUNJAY KUMAR S/o Suresh Kunwar R/O- Vill. - Itwa, P.S. - Muffasil  
(Singhaul), Dist. - Begusarai. ... .. Petitioner/s

Versus

THE STATE OF BIHAR ... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Shubhesh Pandey, Advocate

For the Opposite Party/s : Mr. Binod Kumar, Advocate

Mrs. Asha Devi, A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH**

ORAL ORDER

4      04-04-2022                      Heard learned counsel appearing on behalf of the  
  
petitioner, learned counsel appearing on behalf of the informant  
  
and learned APP for the State.

Let the defect(s) be removed within two weeks of the  
  
complete start of the physical Court in normal course.

Petitioner, who is in custody since 18.01.2021, seeks  
  
regular bail in connection with Muffasil (Singhaul) P.S. Case No.  
  
665 of 2020 registered for offences punishable under Sections  
  
302/34 of the Indian Penal Code and Section 27 of the Arms Act.

Prosecution story in brief is that after receiving a  
  
phone call, the husband of the informant namely, Pramod  
  
Kunwar went outside on his bicycle, thereafter, he did not return  
  
back. The dead body of her husband was found along the  
  
roadside near the field of Radha Kunwar. Informant has named  
  
Ankit Kumar, Chandan Kumar and Rajesh Kumar in the FIR.



Her husband's mobile no. is 8298651227 on which call was received from mobile no. 7079284427.

Learned counsel appearing on behalf of the petitioner submits that petitioner is not named in the FIR rather he has been roped in the present case in course of investigation on the basis of statement of one Binod Shah, who has claimed himself to be the eye witness. He submits that same cannot be relied upon in absence of any evidence or material collected in course of investigation. From the call details/CDR there is no evidence that the petitioner had ever made call on said phone number. There is no evidence against the petitioner. Petitioner has falsely been implicated in the present case and he is in custody since 18.01.2021.

Learned counsel appearing on behalf of the informant has vehemently opposed the prayer for grant of bail to the petitioner. He has relied upon paragraph no. 52 of the case diary in which statement of the Binod Shah has been taken, who has stated that the petitioner along with the other co-accused has committed the murder of the husband of the informant. In paragraph no. 8 of the case diary, statement of the daughter of the informant has been taken, who has also supported the said fact that Mritunjay Kumar (Petitioner) had called his father and after receiving call from him, his father went out and did not return



back. There is involvement of the petitioner in commission of alleged murder of the husband of the informant as such he does not deserve to be enlarged on bail.

Learned A.P.P., for the State has also vehemently opposed the prayer for grant of bail to the petitioner.

Considering the aforesaid facts and circumstances of the case, from the perusal of the entire case diary, the investigation is silent on the call details which has been received by the husband of the informant on his mobile No. as mentioned in the FIR. In absence of even any phone call made by the petitioner, complicity of the petitioner prima facie is not established. There is no eye witness to the alleged incidence of murder and said Binod Shah, on whose statement petitioner has been implicated in the present case having inimical terms with him. Prima facie petitioner has made out a case to be enlarged on bail.

The Court below is directed to enlarge the petitioner above named, on bail upon furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Begusarai in connection with Muffasil (Singhaul) P.S. Case No. 665 of 2020 subject to the following conditions:

(i) Bailors should be local having sufficient immovable



property within the jurisdiction of the Court concerned.

(ii) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.

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

(iv) If the petitioner is found involved in similar nature of offence, after his release on bail, the trial Court shall take steps to cancel his bail bond.

So far as the phone no. is concerned, investigating officer has deliberately not taken any steps to get the call details of the two phone nos. which have been mentioned in the FIR and that has misdirected the trial with vested interest.

Such conduct of the investigating officer must be taken seriously by the officers higher in the rank to the investigating officer having jurisdiction.

**(Purnendu Singh, J)**

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