

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44609 of 2021

Arising Out of PS. Case No.-06 Year-2020 Thana- DUMRA District- Sitamarhi

Ashish Kumar, S/o Ram Narayan Mahto, Resident of Village- Jamuaha
Tilangahi, P.S.- Sonbarsa, Dist- Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Mahendra Thakur, Advocate
		Mr. Sanjay Kumar, Advocate
For the Opposite Party/s	:	Mr. Sateyndra Narayan Singh, APP
For the Informant	:	Mr. Surendra Kishore Thakur, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 05-07-2022 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. Mahendra Thakur, learned counsel for the petitioner, Mr. Surendra Kishore Thakur, learned counsel for the informant and learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Dumra P.S. Case No. 06 of 2020 registered for the offences punishable under Sections 302, 201, 120B/34 of the Indian Penal Code.

As per prosecution case, it is alleged that on 07.01.2020 all the F.I.R. named accused persons committed murder of the minor son of the informant, namely, Harsh Kumar, aged about 14 years, by calling him and concealed his



dead body beneath the staircase of the stadium.

It is submitted by the learned counsel appearing on behalf of the petitioner that the informant is not an eye witness to the alleged occurrence and from the F.I.R. it is evident that initially the F.I.R. has been instituted against one Akash Kumar without giving his parentage. Soon thereafter the restatement of the informant was recorded and again he did not disclose the name of this petitioner and parentage. However, after 14 days, when the statement of the sister of the deceased was recorded, she first time disclosed the name of this petitioner and thereafter his name has been implicated with ulterior motive. It is further submitted that during the course of investigation not even a single independent witness has supported the prosecution case, so far the involvement of this petitioner is concerned. It is next submitted that co-accused, namely, Binod Prasad @ Gajendra Kumar, having similar allegation, has already been granted bail by a co-ordinate Bench of this Court in Cr. Misc. No. 25716 of 2020 vide order dated 11.11.2020. It is also submitted that this petitioner is in custody since 15.04.2021 having clean antecedent and is ready to give undertaking that he will remain present on each and every date fixed by the trial court.

On the other hand, learned counsel for the informant vehemently opposes the bail application and submits that this a



case of brutal murder of a 14 years of boy, who had been protested the wrongful activities and eve teasing made by the accused persons. It is also submitted that during the course of investigation, the sister of the deceased has categorically stated that the petitioner along with his friends always used to do wrongful activities and eve teasing, which was protested by her brother and due to that the deceased had been killed. It is lastly submitted that the trial is at the fag end and only the investigating officer of the case is to be examined.

Learned APP for the State also opposes the bail application and submits that ample material has come during the course of investigation, which suggests the complicity of this petitioner.

Having considered the submissions made on behalf of the parties and taking into consideration the fact that the sister of the deceased has categorically asserted and taken the name of this petitioner that he always used to do wrongful activities and eve teasing, which was protested by his brother, who was just about 14 years old and prior to the occurrence, some altercation and fight were also taken place with the deceased, and all the F.I.R. named accused persons had threatened the deceased with dire consequences and soon thereafter this occurrence has taken place. So far the submissions made on behalf of the petitioner



that the case of the petitioner stands on similar footing to that of co-accused, Binod Prasad @ Gajendra Kumar, is concerned, this Court does not find substance in the submissions made on behalf of learned counsel for the petitioner, as the only allegation against the co-accused Binod Prasad @ Gajendra Kumar, is that that he was a teacher, who had asked the informant on telephone to let his son go to the stadium and no other allegation against him, apart from the fact that the trial is at the fag end and is likely to be concluded in a short period, this Court is not persuaded to enlarge the petitioner on bail.

Accordingly, the present application for grant of bail to the petitioner is hereby rejected.

However, it is expected that the learned trial court will conclude the trial of the present case within a period of two months from the date of receipt/production of a copy of this order, failing which the petitioner would be at liberty to renew his prayer for bail before the trial court itself and the trial court would pass necessary order considering the fact that the other accused persons have been granted bail by this Court.

(Harish Kumar, J)

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