

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36855 of 2022

Arising Out of PS. Case No.-384 Year-2021 Thana- BEGUSARAI MUFFASIL District-
Begusarai

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Rajesh Kumar@ Ashiq Kumar Son Of Shekhar Singh, Resident of Village-
Mohanpur, P.S.- Mufassil, District- Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Siddarth Prasad, Advocate

For the Opposite Party/s : Mr. Rana Randhir Singh, APP

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 26-09-2022 Heard Mr. Siddarth Prasad, learned counsel for the

petitioner and the learned APP for the State.

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

The petitioner is in judicial custody in connection
with Mufassil P.S. Case No.384 of 2021 instituted under Section
s 302, 201/34 of the Indian Penal Code.

As per the FIR, lodged by the informant on
18.07.2021, one Amit Kumar and Petitioner came to his house
on pulsar bike and took his younger brother, Gautam Kumar
along with them. He further alleged that in the evening, when
his brother didn't return, he called his brother on his mobile,
upon which he told him that is in Barauni and will be returning
home. The informant further alleged that when his brother didn't
return in the night, he again called on him but his number was



switched off. He thereafter unsuccessfully tried to search his brother. The informant further stated that his elder brother Rahul Kumar on 02.07.2021 had fled away with wife of co-villager Rahul Kumar Singh and married with her which was being resented and one Vikash Singh on 18-19/07/2021 had called his elder brother that if fails return with wife of Rahul Kumar Singh, he will kill my younger brother Gautam Kumar. Informant alleged that when he called Vikash Singh he stated that he had killed his brother and will also kill him. Thus, the FIR was lodged against Vikash Singh and other accused persons.

Learned counsel for the petitioner submits that a bare perusal of the FIR would show that specific allegation is against Vikash Singh that when the informant called him he confirmed about the killing further threatening that they are also going to face dire consequences. So far as this petitioner is concerned, although he has been named as an accused in the matter, the fact remains that he was friend of the deceased and the informant vide Annexure-2 had earlier implicated both the deceased and this petitioner and in that backdrop his implication by the said informant can very well be understood. It is his further submission that although the informant tried to retract his



statement exonerating the said Vikash Singh from the list of the accused, the learned Trial has taken cognizance against all the accused persons and as such the FIR as stands will remain the same i.e. the Vikash Singh was the main culprit. He submits that though he do not have criminal antecedent, is in custody since 29.01.2022. His last submission is that accused Vikash Singh has been granted bail.

Learned counsel for the State opposes the bail stating that it is a killing of a victim person and the petitioner being his friend cannot exonerate himself of the charges.

Considering the aforesaid facts including that the said Vikash Singh has since been granted bail by the learned Trial Court, he is in custody since 29.01.2022, have no criminal antecedent and charge-sheet stands submitted and ultimately he has to face the trial, this Court is inclined to grant him privilege of bail.

Let the petitioner be released on bail on furnishing bail bond of Rs.10,000/-(Rupees Ten Thousand) with two sureties of the like amount each in connection with Mufassil P.S. Case No.384 of 2021 to the satisfaction of learned Additional Sessions Judge, XII, Begusarai, subject to following conditions:

- (i) one of the bailor should be the family member of



the petitioner, who shall provide official document to show his/her bona fide;

(ii) the petitioner shall appear on each and every date before the Trial court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail by the Trial court itself;

(iii) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of his bail bonds;

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

Prakash Narayan /-

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