

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45942 of 2021**

Arising Out of PS. Case No.-53 Year-2021 Thana- GWALPARA District- Madhepura

MD. KAMRAN ALAM Son of Md. Semrul Jama @ Semrul Zama Resident
of Village - Pirnagar, Ward No. - 6, P.S. - Gwalpara, District - Madhepura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shailendra Kumar Singh, Advocate

For the Informant : Mr. Pawan Kumar, Advocate

For the Opposite Party/s : Mr. Awadhesh Kumar Singh, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER**

6 24-02-2022 Heard learned counsel for the petitioner, learned
counsel for the informant and learned A.P.P. for the State.

Let the defect(s), if any, be removed within a period
of four weeks after complete start of the physical Court.

The petitioner seeks regular bail in connection with
Gwalpara P.S. Case No. 53 of 2021 instituted for the offences
under Sections 302 and 120(B)/34 of the Indian Penal Code.

Learned counsel for the petitioner submits that the
petitioner is in custody since 07.04.2021, is a person with clean
antecedent, charge-sheet has been submitted and is a student.

Learned counsel for the petitioner submits that from
perusal of the allegation as alleged in the FIR it would manifest



that the informant alleges that his son Md. Nehal (deceased) received a call on his mobile no. 6394350377, 7518422801 on 02.04.2021 at about 07:00 P.M. and after receiving the call the deceased went outside the house and when he did not return for 2-3 hours then the informant and her family members started searching but were not able to locate him. Thereafter, on 03.04.2021, during search, the daughter of the informant found the dead body lying near Akhada with neck slit, accordingly, the FIR was instituted against unknown.

Learned counsel for the petitioner submits that the FIR was against unknown and the name of the petitioner transpired based on the investigation of the CDR. It is submitted that the call which went to the deceased at 07:00 P.M. was from the mobile of this petitioner. Learned counsel submits that during the course of investigation also it has come that this petitioner and the deceased were best friend and, as such, used to talk regularly with each other. It is submitted that on the date of occurrence i.e. 02.04.2021 the deceased at 18:45:09 had made the first call to the petitioner and thereafter the petitioner made a call to the deceased at 06:53 P.M. and thereafter at 07:05 P.M. Learned counsel submits that after the petitioner was arrested based on the investigation of the CDR, it transpired that



Md. Jamaluddin and Md. Shahabuddin were involved in the occurrence as the petitioner in his confessional statement disclosed that the deceased was having relationship with sister of Jamaluddin and, as such, when the deceased came to meet the petitioner Jamaluddin along with Shahabuddin intercepted him and killed him by slitting his neck. Learned counsel submits that it is an admitted fact that petitioner and the deceased were good friend, it was the deceased who first made a call to the petitioner and thereafter the petitioner made second call asking the deceased to come for playing cricket. Learned counsel submits that the petitioner was completely unaware that such an occurrence would take place. It is submitted that if the petitioner would have known that Jamaluddin and Shahabuddin would kill the deceased then definitely he would not have made a call to the deceased asking him to come and after the occurrence would have been implicated easily based on the call made to the deceased. It is submitted that since the petitioner had called the deceased for playing cricket and the accused Jamaluddin and Shahabuddin all of a sudden appeared on the scene and committed the occurrence, as such, he was afraid in disclosing and was also under threat by the accused not to disclose the occurrence to anyone. Learned counsel at the cost of repetition



submits that no prudent and sensible man knowing that an occurrence is going to take place would get himself implicated by creating an evidence against himself, in this case, a call to the deceased.

Learned A.P.P. for the State and learned counsel for the informant vehemently opposes the prayer for bail. Learned counsel for the informant submits that co-accused Md. Jamaluddin and Md. Shahabuddin bail has been rejected by order dated 07.02.2022 in Cr. Misc. No. 61407 of 2021 and hence, maintaining parity the bail of this petitioner deserves to be rejected, but, the learned counsel for the informant is not able to meet the submission of the learned counsel for the petitioner as raised and recorded hereinabove and also does not dispute that the first call was made by the deceased to the petitioner.

Considering the fact that the petitioner is in custody, is a person with clean antecedent, is a student and charge-sheet has been submitted and taking into consideration the submissions made by the learned counsel for the petitioner, let the petitioner above named be released on bail on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-II, Uda-Kishunganj, Madhepura in



connection with Gwalpara P.S. Case No. 53 of 2021, subject to the conditions that one of the bailors shall be the father of the petitioner Md. Semrul Jama @ Semrul Zama and the learned court below will be at liberty to cancel the bail bond of the petitioner in the event if the petitioner in the trial does not appear on two consecutive dates.

(Satyavrat Verma, J)

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