

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49388 of 2021**

Arising Out of PS. Case No.-435 Year-2020 Thana- BETTIAH CITY District- West
Champaran

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MADHU @ MANISH KUMAR @ MADHU KUMAR Son of Mukurdun
Sah @ Manoj Sah Resident of Mohalla - Purani Gudari Turha Toli Ward No.
10, Police Station - Bettiah Town (Kalibagh O.P.), District - West Champaran.
... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sachida Nand Rai, Advocate
For the Opposite Party/s : Mr. Navin Kumar Pandey, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 27-04-2022 Heard learned counsel appearing on behalf of the
petitioner 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 11.12.2020, seeks
regular bail in connection with Bettiah Town (Kalibagh) O.P.
P.S. Case No. 435 of 2020 registered for offences punishable
under Sections 302/34 of the Indian Penal Code.

Prosecution story in brief is that 2-3 days prior to
occurrence, altercation has taken place between the petitioner
and the informant's brother. On the fateful day informant's
brother went to the market whereafter informant received
intimation regarding his killing.

Learned counsel appearing on behalf of the petitioner



submits that he had seen the dead body of the Rayees Lal Kumar, who is the brother of the informant and accordingly, he informed the informant that a dead body is lying in a ditch near Jhilia. Allegation is of quarrel between named accused Chandrama Bhagat, 2-3 days before the dead body of the deceased was recovered. He further submits that in course of investigation, the sister of the deceased in her self statement under Section 161 Cr.P.C. has made statement that the deceased (brother) had gone out along with the present petitioner. She has not made any allegation of either quarrel with the present petitioner or any overt act to have been committed by him. Allegation is against Chandrama Bhagat with whom the deceased had quarreled. There is no eyewitness of the alleged commission of murder. There is much delay in lodging of the FIR. Petitioner, for no reason has been dragged in the present case and in custody since 11.12.2020. Petitioner has clean antecedent and hence he deserves to be released on bail.

Learned A.P.P., for the State has opposed the prayer for grant of bail to the petitioner. He has relied on paragraph no. 19 of the case diary in which the statement of the sister of the deceased was recorded, who has stated that the petitioner has visited the house of his brother and the deceased had gone out



along with the present petitioner. Postmortem was conducted and the death has been caused by hard blunt substance.

Considering the rival submission of the parties, allegation made in the FIR it appears that petitioner is the person who had seen the dead body of the brother of the informant and immediately informed the informant, no overt act has been alleged against the petitioner rather the allegation is against one co-accused Chandrama Bhagat, who had quarreled with the deceased. The prosecution has not been able to connect the present petitioner with the Chandrama Bhagat in any manner. The statement of the sister of the deceased, Asha Devi has been recorded in paragraph no. 19 in which she has not made any allegation that it is the petitioner, who has committed the murder of the petitioner in association with co-accused Chandrama Bhagat or any other person. That apart, no material has been collected by the investigating agency in course of investigation against the petitioner. Other co-accused Chandrama Bhagat has already been released on bail vide order dated 09.09.2021 passed in Cr. Misc. No. 14803 of 2021. Prima facie it appears that the petitioner has made out a case to be released on bail.

The Court below is directed to release 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, Bettiah, District-West Champaran in connection with Bettiah Town (Kalibagh) O.P. P.S. Case No. 435 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.

(Purnendu Singh, J)

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