

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 47846 of 2021**

Arising Out of PS. Case No.-545 Year-2020 Thana- KANKARBAG District- Patna

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AMIT @ AJIT KUMAR @ HAGWA Son of Late Vinod Yadav Resident of
Village - Gorya Toli, P.O.- GPO, P.S.- Kotwali, Distt.- Patna.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Ms Vijaya Laxmi Srivastawa, Advocate

For the Opposite Party/s : Mr Atul Chandra, APP

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

3 10-03-2022 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor (for brevity, APP) appearing for
the State of Bihar.

The petitioner seeks bail in Kankarbagh Police Station
(for brevity, *PS*) Case No 545 of 2020 instituted for the offence
punishable under Sections 302, 201, 120B of Indian Penal Code.

The informant has alleged that her brother was taken
away by his three friends, namely, Painter Kumar, Ravis Kumar
@ Wisia and Bumbam @ Sachin. Later, he has been found dead
at the Hospital in a half burnt state. Allegation is that the
accused persons, including the petitioner, had killed the
informant's brother after strangulating him and have burnt the
body in an effort to destroy the evidence.



It is submitted by the petitioner's counsel that the petitioner is not one of those persons who has taken away the informant's brother. Statement of co-accused Ravish Kumar, which forms part of the First Information Report (for brevity, *FIR*), does not name the petitioner and his implication with other co-accused persons is solely based on suspicion, based on his antecedent in Kotwali PS Case No 449 of 2016. The co-accused who, as per *FIR*, had taken away the informant's brother, namely, Raushan Kumar @ Baliya has been allowed anticipatory bail by this Court in Cr Misc No 9304 of 2021 whereas the petitioner is in custody since 23.01.2021, i e, more than a year.

The learned APP has opposed the prayer for bail.

Having considered the rival submissions, this Court would take notice of the fact that petitioner's name has not been stated by co-accused Ravish Kumar, in his statement which forms part of the *FIR*, it is not the petitioner who has allegedly taken away the informant's brother and the petitioner is on bail in the other case, pending against him, where there is no allegation of misuse of bail. In the instant case also, there is no allegation of tampering the evidence and the investigation is complete. This Court is inclined to allow the prayer for bail.



Let the petitioner, above named, be released on bail on his furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Patna in Kankarbagh PS Case No 545 of 2020 subject to the following conditions:-

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

Learned counsel for the petitioner is expected to honour his undertaking given in the instant proceedings today for depositing requisite Court fee and removing the defect (s), as pointed out, when called upon to do so.

(Madhuresh Prasad, J)

M.E.H./-

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