

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49961 of 2021

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

Rabish Kumar @ Bisiya S/O Ramesh Sao R/O Mohalla-Chargharwa Gali
No.2 Chiraiyantnr, P.S-Kankarbagh, District-Patna.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bijay Bhushan Prasad, Advocate

For the Opposite Party/s : Mr. Sanjay Kumar Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 17-05-2022 Let the defects, if any, be removed within four weeks
from today.

Heard Mr. Bijay Bhushan Prasad, learned counsel for
the petitioner as well as learned Additional Public Prosecutor for
the State.

Petitioner seeks bail in a case registered in connection
with Session trail no. 384 of 2020 arising out of Kankarbagh
P.S.Case No. 545 of 2020 for the offences punishable under
Sections 302, 201, 120B of the Indian Penal Code .

As per the prosecution case, it is alleged that on
30.07.2020, the accused persons taken away the brother of the
informant Sonu Kumar (deceased), who did not return back
.The informant got information that one dead body was found
by the Kankarbagh police, which has been sent to PMCH for



post mortem. The informant identified the dead body of his brother and FIR has been drawn against the accused persons named in the FIR, who allegedly killed his brother with common intention.

It is submitted by the learned counsel for the petitioner that there is no eye witness to the alleged occurrence and so far as the deceased is concerned, he was a man of criminal antecedent and few day before the occurrence , he was released on bail. It is further submitted that except the allegation that he was accompanied with the deceased in the evening on 30.07.2020, no incriminating material has come during the course of investigation. However, the police after his arrest recorded his confessional statement, which has no evidentiary value in the eye of law. It is next submitted that the petitioner has no criminal antecedent and is in custody since 01.08.2020 and moreover, one co-accused having identical allegation namely, Sachin Kumar has already been granted bail by a co-ordinate Bench of this Court vide order dated 23.03.2022 in Cr. Misc. No. 44603 of 2021. The copy of the same is kept on record.

On the other hand, learned counsel for the State opposed the bail application of the petitioner and submits that it



is a case of last seen and the petitioner along with other co-accused persons had taken away the deceased thereafter his dead body was found.

Considering this fact that it is case of last seen and there is no eye witness to the alleged occurrence. Petitioner is in custody since 01.08.2020 having no criminal antecedent and moreover, one co-accused having similar allegation has already been granted bail by co-ordinate Bench of this Court, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge XXV, Patna in connection with Session Trial no.384 of 2020 arising out of Kankarbagh P.S.Case No. 545 of 2020 subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.



(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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