

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40397 of 2022

Arising Out of PS. Case No.-765 Year-2021 Thana- DANAPUR District- Patna

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Akash Kumar S/O Dipan Rai @ Dipan Mahto Resident of Village -
Bhatauliya (Bhataulia), Police Station- Belsand, District - Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Uday Kumar, Advocate.
For the Informant	:	Mr. Sunil Kumar Verma, Advocate.
For the Opposite Party/s	:	Mr. Harendra Prasad, APP.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 17-10-2022 Learned counsel for the petitioner is permitted to

remove the defect(s), as pointed out by the office, within a

period of four weeks from today.

Heard Mr. Uday Kumar, learned counsel for the
petitioner, Mr. Sunil Kumar Verma, learned counsel for the
informant and learned APP for the State.

The petitioner seeks regular bail, who is in custody in
connection with Sessions Trial No. 169 of 2022, arising out of
Danapur P.S. Case No. 765 of 2021, registered for the offences
punishable under Sections 302/34 of the Indian Penal Code.

The prosecution case is based on a written report filed
by the informant alleging therein that on 26.10.2021 at about
07:30 O'clock in the morning, he received an information from



his cousin that his brother, namely, Mishrilal has been killed. On the aforesaid information, he rushed to the place of occurrence and found the dead body of his brother was lying therein, some scratches on his body and swelling on his neck was also found. It is further alleged that one Sujit Kumar and Sachin Kumar also used to live along with his brother, who were found present along with the dead body of his brother. The informant also came to know that on 25.10.2021, all the three persons have slept in the room after taking the food in the night, however, both of them have not replied satisfactorily and the informant suspected the hands of co-accused Sujit, Sachin, Ravi and the petitioner.

Learned counsel appearing on behalf of the petitioner submits that admittedly, from the FIR, it would be evident that the informant is not an eyewitness to the alleged occurrence and a suspicion has been raised with regard to the complicity of the petitioner along with co-accused Sujit and Sachin, who were said to be room partners of the deceased. From the FIR, it would also be evident that on 25.10.2021, the deceased slept along with co-accused Sachin and Sujeet and in the next morning at about 07:30 am, the information of death has been received by the informant. He further submits that no motive has been



assigned against the petitioner, however, only on the disclosure made by co-accused Sachin and Sujit, name of the petitioner has surfaced, apart from the suspicion. He also submits that co-accused Ravi Kumar @ Saurav Kumar having identical allegation has already been allowed the privilege of anticipatory bail by learned Co-Ordinate Bench of this Court in Cr. Misc. No. 17129 of 2022, vide order dated 13.05.2022. He next submits that the petitioner having fair antecedent, is in custody since 28.10.2021 and now the investigation of the crime is already complete and the charge-sheet has been submitted and he has ready to give undertaking that he will fully co-operate in the trial.

On the other hand Mr. Verma learned counsel for the informant vehemently opposes the bail application and submitted that in fact the postmortem report clearly suggests that the deceased was done to death by asphyxia due to throttling and this can only be happened jointly with the help of other co-accused persons and moreover the co-accused Sachin and Sujit have disclosed the fact before the police that the deceased was killed by them with the help of this petitioner. He further submits that during the course of investigation materials have come suggesting the complicity of the petitioner in the



crime, apart from the fact that the informant has already filed an application for cancellation of anticipatory bail of co-accused Ravi Kumar, bearing Cr. Misc. No. 40166 of 2022, which is pending for consideration.

The learned counsel for the State has also opposed the bail application and submits that the involvement of the petitioner cannot be ruled out.

Regard being had to the submissions made on behalf of the parties and considering the FIR, which clearly suggests that on the fateful day in the night the deceased was slept along with co-accused Sachin and Sujit and thereafter in the morning the information of death has been received by the informant, apart from the fact that there is no eyewitness to the alleged occurrence and save and except the suspicion there is no other cogent material showing the complicity of the petitioner as also the fact that another co-accused person is enjoying the privilege of anticipatory bail and so far the petitioner is concerned, he is in custody for about one year, having fair antecedent, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge- 6th , Danapur, Patna, in connection



with Sessions Trial No. 169 of 2022, arising out of Danapur P.S. Case No. 765 of 2021, 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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