

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.50748 of 2021**

Arising Out of PS. Case No.-67 Year-2021 Thana- BENIPATTI District- Madhubani

NIKHIL KUMAR JHA @ NIKHIL JHA Son of Mr. Baban Jha @ Baban
Kumar Jha Resident of Village - Tyonth, P.S.- Benipatti, District - Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Ms. Vaishnavi Singh, Adv.
For the Opposite Party/s	:	Mr.Prem Kumar Jha, APP
For the Informant	:	Ms. Kusum Rani, Adv.

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

5 12-01-2022 Heard learned counsel for the petitioner and learned
A.P.P. for the State as well as learned counsel for the informant.

Petitioner in the present case is seeking regular bail in connection with Benipatti P.S. Case No.67 of 2021 registered for the offences punishable under Sections 147, 148, 149, 341, 323, 324, 325, 326, 307, 302 and 120(B) of the Indian Penal Code and Section 27 of the Arms Act. He is in custody since 30.03.2021. The petitioner has got no criminal antecedent.

Learned counsel for the petitioner submits that from the First Information Report it would appear that on 29.03.2021 in the alleged occurrence which took place in the afternoon, five persons from the family of the informant were killed in a brutal attack on those members of the family of the informant. The



informant has named altogether 27 persons who had been seen at the place of occurrence. He has given the account of every moment of the alleged occurrence and has narrated as to who killed whom and who injured whom, but the petitioner is not named among those 27 persons. In the second part of the FIR, it is alleged that the informant came to know that prior to giving effect to this occurrence a meeting had taken place in the house of co-accused Ashok Singh (A-28). In the said meeting, accused no.29 to accused no.35 were present and they had planned the alleged occurrence and had arranged for the arms which were used in the alleged occurrence. Apart from them, 10-12 unknown persons are said to be present on the place of occurrence and had participated in the occurrence.

Learned counsel for the petitioner submits that this petitioner is aged about 19 years and is a student of B.Com (Part-I). He has been falsely implicated in this case because of the village politics and also he is one of the brothers of an accused in this case. Learned counsel points out that the FIR has been lodged after about seven and half hours from the alleged occurrence and during this period with preconceived mind the name of the petitioner has also been introduced in the FIR. Though he is not said to be present on the place of occurrence



and no overt act has been alleged against him. The petitioner has already remained in jail for ten months and at this stage his further continuation in custody is not likely to come in aid of the investigation or the prosecution rather his continued detention is likely to take him away from his study and from the main stream of the society.

Learned counsel for the informant has opposed the prayer for bail of the petitioner. She has read out the confessional statement of the co-accused, however, admittedly in the confessional statement the name of the petitioner has not been pointed out either as a conspirator or being a person actively involved in the alleged occurrence. It is not controverted by learned counsel for the informant that so far as this petitioner is concerned, the informant had not seen him on the place of occurrence and there is no allegation that he had committed any overt act.

Mr. Prem Kumar Jha, learned APP for the State has while opposing the prayer for bail of the petitioner submitted that while it is true that in the confessional statement the co-accused has not involved this petitioner in connection with this occurrence but in course of investigation several witnesses have stated that this petitioner was also present in the meeting where



the planning was hatched. It is not disputed that the FIR has been lodged after seven and half hours of the alleged occurrence which took place at 1'O clock in the afternoon and police had arrived immediately thereafter.

Having regard to the facts and circumstances of the case, the unconverted submissions of learned counsel for the petitioner and that the petitioner is not named among those 27 accused who were allegedly present on the place of occurrence and no overt act has been alleged against him, the materials in form of the fact that the petitioner is a student and he is pursuing his study, he has otherwise no criminal antecedent and the circumstances under which the petitioner has already remained in custody and investigation against him is complete, let the petitioner above named be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Additional District Judge-V, Madhubani in connection with Benipatti P.S. Case No.67 of 2021, subject to the condition as laid down under Section 437 (3) Cr.P.C.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal



antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

