

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41346 of 2022

Arising Out of PS. Case No.-250 Year-2021 Thana- DHANARUA District- Patna

Mani Kumar Son of Ajay Yadav @ Ajay Kumar Resident of vill- Chhotki Math, P.s.- Dhanarua, Distt.- Patna

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Lallu Prasad, Advocate.

For the Opposite Party/s : Mr. Uday Chand Prasad, APP.

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 16-11-2022 The learned counsel for the petitioner is directed to remove all the defects pointed out by the Stamp Reporter within one month.

Heard learned counsel for the petitioner and the learned APP for the State.

Petitioner seeks regular bail in connection with Dhanarua P.S. Case No.250 of 2021 registered for the offence punishable under Section 302/34 of the Indian Penal Code.

As per the prosecution, the informant has alleged that his son Tinku Kumar (deceased) went to meet his friends who are this petitioner and co-accused Bhura Yadav as they had called him on phone. The deceased went with his cousin Dharmendra Kumar and later Dharmendra Kumar returned back home alone. Thereafter, as the informant's son did not return



back he went to search for him. Later, on the alleged date the informant received an information that an unidentified dead body has been found and kept at Dhanarua thana, the informant reached there and identified the dead body as his son Tinku Kumar and raised suspicion against this petitioner and co-accused Bhura Yadav.

The main submissions advanced by learned counsel Mr. Lallu Prasad for the petitioner are that there is no eyewitness of the alleged murder, the petitioner has been languishing in jail in this case merely on the basis of suspicion and the same has been made without any basis, as per the Post-Mortem report of the deceased the cause of death has been opined by the doctor as due to drowning and the petitioner has been languishing in jail since 07.02.2022. Further submission is that the petitioner and the deceased did the transportation business of bricks together and there was no bad relation between them, hence there was no reason for the petitioner to kill the deceased and the petitioner and the deceased used their tractors separately to transport bricks and there was no any type of dispute between them.

Learned APP Uday Chand Prasad appearing for the State has opposed the bail prayer.



Heard both the sides and perused the FIR and the order impugned. In the FIR, only suspicion has been raised by the informant against the petitioner and as per order impugned there is no direct evidence against the petitioner showing his involvement in the alleged murder. The prosecution has mainly placed reliance upon the CDR details relating to the mobile numbers of the deceased and the petitioner which shows that a phone call was made between them during the relevant period of the murder but except this and the fact that the deceased left his home at the call of this petitioner there is no any other material to show the involvement of the petitioner in the alleged crime and the petitioner has clean antecedent and in the FIR any motive on the part of the petitioner to kill the deceased has not been revealed. Considering these facts as well as above submissions and also the facts and circumstances of this case appearing from the FIR, in the opinion of this Court it is a fit case for grant of bail to the petitioner, let the petitioner be enlarged on bail on furnishing bail bond of Rs.10,000/-(Ten Thousand) with two sureties of the like amount each to the satisfaction of Judicial Magistrate 1st class, Masaurhi, Patna in Connection with Dhanarua P.S. Case No.250 of 2021 on the following conditions:-



(1) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court below and shall remain physically present as directed by the Court below and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

(2) If the petitioner tampers with the evidence or the witnesses, in that case the prosecution will be at liberty to move for cancellation of bail.

(3) One of the bailers shall be a close relative of the petitioner who has sworn affidavit in this miscellaneous petition.

(4) The court below will verify the criminal antecedent of the petitioner but acceptance of bail bond will not be delayed on account of process of verification of the said criminal antecedent. If any criminal antecedent of the petitioner is found then the court below shall take serious action against him for cancellation of his bail bond.

(Shailendra Singh, J.)

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