

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42141 of 2022**

Arising Out of PS. Case No.-344 Year-2021 Thana- KHAGARIA District- Khagaria

Sadhu Mistri @ Sadhu Tanti S/O Late Bhagwat Tanti Resident of village-
Snahauli, Ward No.- 13, P.S.- Chitragupta nagar, District- Khagaria.

... .. Petitioner

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ram Nibash Prasad, Advocate.

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

**CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER**

2 15-11-2022 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 learned
APP for the State.

Petitioner seeks regular bail in connection with
Khagaria (Chitragupta Nagar) P.S Case No. 344 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
her husband (deceased) Md. Aslam who was a Raj Mistri
(Mason) had gone to work at the house of Kunal and Nirmal
Singh along with this petitioner. Further it is alleged that on the
alleged date and time the informant made a phone call to her
husband which was received by an unknown person and he told
that the informant's husband had fallen from the roof but when



the informant asked to this petitioner he told that the deceased slipped from stairs. Later on, when the informant saw her husband, she found that his toe nails were removed and during the course of treatment the informant's husband succumbed to the injuries.

The main submissions advanced by learned counsel Mr. Ram Nibash Prasad appearing for the petitioner are that the petitioner is a Mason (Raj Mistri) and the deceased Md. Aslam was a labourer and both had been working together at the alleged place and during the construction work the deceased slipped from the roof of the construction site and sustained injuries and subsequently he died and in the Post-Mortem report of the deceased abrasion over the body of the deceased was found and several ribs of the deceased were found to be fractured and the Post-Mortem report clearly shows that deceased died due to an accident. Further submission is that the informant lodged the FIR due to misunderstanding and later on she realized her mistake and filed a petition before the Chief Judicial Magistrate, Khagaria as Annexure -2 denying the allegation made in the FIR and accepted the accidental death of her husband. Further submission is that after getting the knowledge of the actual reason of the accident the police submitted police report under section 304(A) and other relevant



sections of the Indian Penal Code and the petitioner has been languishing in jail since 11.05.2022. Further submission is that the petitioner and co-accused themselves took the deceased in the injured condition to the hospital for treatment.

Learned APP Mr. Jagdhar Prasad appearing for the State has opposed the prayer for bail.

In view of above submissions and considering the above mentioned defence of the petitioner as to the deceased having died due to an accident and also the fact that later on the informant filed a petition before the Chief Judicial Magistrate concerned supporting the said defence of the petitioner and also considering the custody period of the petitioner and the fact that the investigation has been completed against him, in the opinion of this court the petitioner deserves to a lenient approach of this Court, let the petitioner be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Khagaria in connection with Khagaria (Chitragupta Nagar) P.S Case No. 344 of 2021.

(Shailendra Singh, J.)

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