

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52396 of 2021**

Arising Out of PS. Case No.-48 Year-2020 Thana- PUNAURA District- Sitamarhi

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RAM JIWAN PASWAN SON OF SHIV PASWAN @ MAHADEO PASWAN
RESIDENT OF KHAIRWA, P.S- PUNAURA, DIST- SITAMARHI

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Prabhat Kumar, Adv.

For the Opposite Party/s : Mr. Ram Sevak Choudhary, APP

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**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER**

6 25-07-2022 At the outset, learned A.P.P. for the State submits that the Superintendent of Police, Sitamarhi has tendered an unconditional apology for the inconvenience caused to this Court by way of filing a show cause affidavit in compliance of the order dated 14.07.2022.

The same is, however, accepted and kept it on record.

Heard learned counsel for the petitioner and the learned A.P.P. for the State.

The petitioner seeks bail in a case registered for the offence under Sections 341, 323, 379, 302, 504/34 of the Indian Penal Code.

The father of the informant is said to have been



killed by the petitioner and others.

Learned counsel appearing for the petitioner submits that the petitioner, who is of clean antecedent, is innocent and has falsely been implicated in this case on the basis of suspicion. He further submits that it is apparent from the F.I.R. itself that informant was not present at the place of occurrence rather it is said that somehow he came to know that his father has been killed and accordingly he went to the place of occurrence where his statement has been recorded by the police. He further submits that the name of this petitioner has transpired in the statements of with witnesses after 10 days of the alleged occurrence. He further submits that according to the postmortem report cause of death of the deceased could not be ascertained, therefore, Viscera was kept preserved for chemical analysis. He further submits that from bare perusal of the Viscera report, it appears that no poison or any substance like poison has been detected or found from the dead body of the deceased. He further submits that the allegation as leveled in the F.I.R. does not get support from the medical evidence nor any eye witness has supported the prosecution version. Therefore, no case under Section 302 of the Indian Penal



Code is made out against the petitioner. The petitioner is rotting in judicial custody since 02.03.2021.

On the other hand, learned A.P.P. for the State has, vehemently, opposed the prayer for bail of the petitioner and submits that in paragraph Nos. 18 and 19 of the case diary, the statement of witnesses, namely Lakshman Paswan and Anup Paswan have been recorded who in their statement supported the prosecution version.

For better adjudication of the case, this Court deems it fit to refer the conclusion of Viscera, which is quoted hereinbelow;

“No Metallic, Alkaloidal, Glycosidal, Pesticidal or Volatile Poison could be detected in the content of exhibit market ‘01’ to ‘06’ as described above.”

Considering the facts and circumstances of the case, let the, above named, 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 learned Court below where the case is pending in connection with Punaura P.S. Case No. 48 of 2020 (G.R. No. 1132 of 2020) with 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 and shall remain physically present as directed by the Court and on his/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be canceled 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.

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.

(Rajesh Kumar Verma, J)

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