

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53898 of 2021

Arising Out of PS. Case No.-253 Year-2021 Thana- KHAJANCHI HAT District- Purnia

1. Vikash Yadav @ Vikash Kumar And Anr Son Of Gandhari Yadav Resident Of Maranga West, P.S- Maranga (K.HAT) Dist- Purnea
2. Jitu Sharma @ Jitendra Kumar @ Jitu Son Of Jawahar Sharma Resident Of Maranga West, P.S- Maranga (K.HAT) Dist- Purnea

... .. Petitioner/S

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. N. K. Agrawal- Sr. Advocate
		Dr. Bidhu Ranjan- Advocate
For the Opposite Party/s	:	Mr. Rabindra Kumar- A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 05-07-2022 Vide order dated 16.11.2021, the anticipatory bail application of petitioner no.1 was withdrawn as having become infructuous.

Heard learned senior counsel for the petitioner no.2 and learned APP for the State.

The petitioner no.2 seeks bail in anticipation of his arrest in a case registered for the offences punishable under Sections 302, 201, 120B/ 34 of the Indian Penal Code.

The learned senior counsel for the petitioner submits that the petitioner is a person with clean antecedent and the informant alleges that on 18.03.2021 at about 3.00 A.M., he was informed about his son's dead body found at NH-31. It is next



alleged that when the informant reached the place of occurrence, he found that his son had knife injury on his stomach and neck had ropes imprint, but his bike, shoes and mobile were missing which prima facie pointed out that he was murdered. It is next alleged that when the informant again went to the place of occurrence, he met Vikash Yadav, who disclosed that one Niraj Kumar Thakur was present with the informant's son since 3 0'clock. It is next alleged that the informant thereafter went to the police station with Niraj Kumar Thakur where he confessed before the police that the deceased on the previous day had kept his helmet in his house.

The learned senior counsel for the petitioner submits that petitioner is not named in the F.I.R. and his name transpired based on the statement of a witness namely, Banti Kumar at Para-9 of the case diary. The learned senior counsel next submits that from perusal of the statement of Banti Kumar at Para-9 of the case diary, it would manifest that the witness does not appear to be reliable. It is next submitted that he has disclosed that he along with Rakesh @ Rauka, Ujjwal Kumar, Banti Kumar (deceased) and the deceased were standing near a betel shop and were consuming pouch (puria), when the deceased disclosed before them that Rakesh had to return



Rs.5,000/-, on which Rakesh requested the deceased to accompany him to his house for getting the payment.

Accordingly, the deceased along with Rakesh went to his house where Rakesh paid him Rs.5,000/- and thereafter, he discloses that when they were returning and they reached near NH-31 when they were intercepted by accused persons on three motorcycles. It is next stated that Rakesh in front of Niraj disclosed that he felt belittled when Ujjwal Kumar demanded his money, on which Niraj fled from the place of occurrence and thereafter, the motorcycle borne criminals along with Rakesh started assaulting Ujjwal Kumar. It is next stated that in the meantime, someone called Rahul, the cousin brother of Banti Kumar and disclosed that Banti Kumar is being assaulted, on which his cousin brother along with his family members came and took Banti Kumar along with them. Thereafter, it is recorded that Banti Kumar disclosed that the deceased was being assaulted by Vikash, Rakesh and Jitu Sharma (petitioner).

The learned senior counsel submits that the statement of Banti Kumar is confusing at the same time, cryptic and also lacks clarity. It is next submitted that if what Banti Kumar has disclosed is true, then he or Rahul or his family members ought to have informed the police about the occurrence being



committed against the deceased, but he chose to remain silent. This amply demonstrates either no occurrence in the manner as disclosed had taken place or it was Banti Kumar, who was involved in the occurrence, as such, with a view to save himself falsely implicated the petitioner. It is also submitted that it absolutely does not stand to reason as to why Banti does not disclose the name of the motorcycle borne criminal, who had intercepted when deceased along with Rakesh came on NH-31. The learned senior counsel also submits that it absolutely does not stand to reason that how Banti came to know that Rakesh paid Rs.5,000/- to the deceased at his home when Banti had not accompanied them. As such, it is submitted that his statement does not create confidence and his conduct also appears to be doubtful and not credible. Further the manner of assault has also not been disclosed by Banti. It is thus submitted that if he had seen the occurrence then definitely he would have corroborated the allegation as alleged in the F.I.R., but since the manner of assault is not disclosed that also leads to an inference that perhaps he was not an eye witness to the occurrence or was trying to derail the investigation.

Learned A.P.P. opposes the bail application.

Considering the submissions made by the learned



senior counsel for the petitioner, the petitioner, above-named, in the event of his arrest or surrender before the learned Court below within a period of six weeks, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Court below where the case is pending in connection with Khajanchi Hat (Maranga) P. S. Case No.253 of 2021, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

The application stands allowed.

(Satyavrat Verma, J)

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