

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54837 of 2021

Arising Out of PS. Case No.-36 Year-2021 Thana- BARARI District- Katihar

Surji Mandal, Son of Late Kairu Mandal, R/O Village- Khabaspur, P.S.-
Ekchari, District- Bhagalpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bimal Kumar, Advocate

For the Opposite Party/s : Mr. Ashok Kumar, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 06-05-2022 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

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

The petitioner seeks regular bail, who is in custody in connection with Barari P.S. Case No. 36 of 2021 for the offences punishable under Sections 302/201/34 of the Indian Penal Code.

As per prosecution case, it is alleged that on 26.02.2021 the father of the informant had gone to his field to harvest crop and at that point of time the informant was in Bhagalpur for his treatment. It is further alleged that at about 5.00 P.M. he was informed that some persons caught his father



and took him towards the river. On the said information, the informant returned to his house and searched his father and on 27.02.2021 he found the dead body of his father at river bank. When he enquired from the villagers and the labourers, he came to know that all the accused persons including this petitioner assaulted his father and killed him.

It is submitted on behalf of the learned counsel for the petitioner that admittedly the informant is not the eye witness to the alleged occurrence. Further during the course of investigation, the statement of the witnesses have been recorded, who also disclosed that they came to know about the occurrence from the villagers and labourers, but surprisingly neither the informant nor any witnesses have disclosed as to from whom they came to know about the involvement of this petitioner in the crime. Learned counsel for the petitioner also drawn the attention to this Court towards the post-mortem report, which suggest the cause of death as Asphyxia, as a result of strangulation, apart from other lacerated injuries over the body of the deceased. It is next submitted that there is no specific allegation against this petitioner and furthermore, there is no eye witness to the alleged occurrence and this petitioner is in custody since 30.07.2021 having fair antecedent. It is lastly



submitted that the investigation has already been concluded and charge-sheet has also been submitted in this case.

On the other hand, learned APP for the State opposes the bail application of this petitioner and submits that during the course of investigation the witnesses have disclosed the name of this petitioner about the involvement in the present crime and the post-mortem report also corroborate the prosecution case.

Having considered the submissions made on behalf of the parties and taking into consideration the fact that admittedly the informant is not an eye witness to the alleged occurrence and during the course of investigation though the statement of independent witnesses have been recorded, but none of them have disclosed as to from whom they came to learn that the petitioner and others have assaulted the deceased. Further, there is no specific allegation against any of the accused persons and this petitioner is aged about 60 years and has got no criminal antecedent, apart from the fact that investigation has already been concluded and charge-sheet has also been submitted in this case and, moreover, there is no allegation of tampering with the evidence and intimidating the witnesses, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the



like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-III, Katihar in connection with Barari P.S. Case No.36 of 2021 subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial. (ii) He will remain present on each and every date of trial till disposal of the case. (iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial. (iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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