

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55062 of 2021

Arising Out of PS. Case No.-237 Year-2019 Thana- KUCHAIKOTE District- Gopalganj

MUMTAJ S/o- Idrish Miyan Resident of Semra Hardo Mafi Tola, P.S. -
Kuber Sthan, Distt. - Kushi Nagar (Uttar Pradesh).

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sushil Kumar, Adv.
For the Opposite Party/s	:	Mr. Madhuri Lata, APP
For the informant	:	Mr. Ranjeet Kumar Pandey, Adv.
		Mr. Rajesh Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 21-04-2022 Let the defects, as pointed out by the office, be removed within four weeks of starting of Court proceeding in physical mode in normal course.

Heard learned counsel for the petitioner and learned counsel for the informant as well as the learned A.P.P. for the State.

A supplementary affidavit, carrying out necessary correction in the main application, has been filed on behalf of the petitioner, which forms part of this application.

The petitioner seeks bail in a case registered for the offence under Sections 302 and 34 of the Indian Penal Code.

As per the prosecution case, it is stated that the



four accused persons including the petitioner herein came and the brother of the informant proceeded with them. He did not return by evening. Subsequently, information was received about a dead body having been found in the river. On going at the place of occurrence, the informant states that he identified the dead body as that of his brother.

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 the alleged occurrence took place on 26.07.2019 whereas the present F.I.R has been lodged on 18.08.2019 after lapse of almost twenty two days without explaining the plausible delay which creates doubt over the prosecution version. He further submits that no cogent material has come during course of investigation against the petitioner. He further submits that according to the postmortem report, the doctor has opined that the death of the deceased caused due to drowning. He further submits that similarly situated co-accused, namely, Alidin @ Aladin has already been granted bail by this Court vide order dated 22.03.2022 passed in Cr. Misc. No. 47284 of 2021. The petitioner is rotting in judicial



custody since 04.05.2021.

Learned A.P.P. for the State along with learned counsel for the informant has opposed the prayer for bail of the petitioner.

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 Kuchaikote P.S. Case No. 237 of 2019 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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