

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64573 of 2021

Arising Out of PS. Case No.-427 Year-2020 Thana- PATORI District- Samastipur

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Ajay Kumar Rai @ Ajay Rai S/O Shri Raghunath Rai R/O Village- Dakshini
Dhamaun, P.S.- Patori, District- Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Advocate
	:	Mrs. Vaishnavi Singh, Advocate
	:	Mr. Ritwik Thakur, Advocate
For the Opposite Party/s :	:	Mr. Narendra Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 29-08-2022 Heard learned counsel for the petitioner and learned
APP for the State.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioner seeks bail in connection with Shahpur Patori P.S. Case No. 427 of 2020 registered for the alleged offences under Sections 302, 201 and 34 of the Indian Penal Code.

As per prosecution case, the petitioner and other co-accused persons called out the brother of the informant and took him away. Later on, his dead body was recovered. The informant raised a suspicion that the petitioner and other co-



accused persons slit the throat of his brother and threw away the dead body.

The learned counsel appearing on behalf of the petitioner submits that the petitioner is falsely implicated in this case. For an occurrence of 29.11.2020, the FIR has been registered only on 04.12.2020. It was sent to the Court of learned Magistrate after further delay on 09.12.2020. It seems police received information on 30.11.2020 and inquest of the deceased was prepared at 11:45 AM on 30.11.2020 and in the inquest report, where the name of the deceased had been mentioned, this informant along with a co-villager witness put their signatures as witnesses. If the occurrence as alleged in the FIR had taken place, naturally informant would have stated the same before the police. But he did not do so and this shows the falsity of the allegation. It is also apparent that the informant seems to have given some other version at the time when the inquest report was prepared and the same has been suppressed by the prosecution and belatedly FIR has been registered with different set of facts. Falsity of the present case is more evident as the post mortem was conducted at 3:20 PM on 30.11.2020 and the doctor opined about time elapsed since death within 36 hours and this goes on to show that the deceased died in the



night of 28th or in the early morning of 29th and not after the evening of 29th as alleged in the FIR. There is no material to show that the petitioner and other co-accused persons took away the brother of the informant. It is also apparent from the FIR that if co-accused Akhilesh Rai had brutally assaulted the brother of the informant earlier, there was no question of the brother of informant going with co-accused Akhilesh Rai. On the date of alleged occurrence, the tower location of mobile phone was not near the place of the informant. All these facts go on to show that the present case is a false one and the petitioner has been falsely implicated. He is in custody 07.09.2021 and charge-sheet has been submitted and he is having clean antecedent.

Learned APP opposes the prayer for bail submitting that brother of the informant was murdered and the petitioner has been named in the FIR as one of the accused persons.

Having regard to the facts and circumstances and considering the submissions made on behalf of the parties and also considering the doubts over the sequence of events and possibility of false implication along with period of custody of this petitioner and submission of charge-sheet against him and further taking into account his clean antecedent, the petitioner



above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate II, Samastipur in connection with Shahpur Patori P.S. Case No. 427 of 2020, subject to the conditions mentioned in Section 437(3) of the Cr.P.C. and the following conditions:

- (i) One of the bailors will be Vasudev Ray, Father-in-law of the petitioner, who has sworn the affidavit in this case.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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