

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64895 of 2021**

Arising Out of PS. Case No.-44 Year-2021 Thana- THAKURGANJ District- Kishanganj

MARQUB @ MARGUB @ MD. MARQUB ALAM Son of Amiruddin Resi-
dent of Village - Raj Basti, P.S.- Thakurganj, Distt.- Kishanganj.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bhola Prasad, Advocate

For the Opposite Party/s: Mr. Anand Kishore Choudhary, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER**

2 31-03-2022 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

Let the defect(s), if any, be removed within a period
of four weeks after complete start of the physical Court.

The petitioner seeks bail in a case registered for the
offences punishable under Sections 302, 376, 201/34 of the In-
dian Penal Code read with Section 6 of the POCSO Act.

Learned counsel for the petitioner submits that the pe-
titioner is in custody since 01.04.2021, is a person with clean
antecedent and charge-sheet has been submitted and is a young
boy of 21 years of age.

The informant alleges that he received information on
29.03.2021 that his minor daughter, aged about 14 years, was
missing. Further, on 29.03.2021, the dead body of the daughter
of the informant was found buried in the field of the petitioner



and body was exhumed and blood was oozing from the nose. It is further alleged that the informant came to know that petitioner and his brother was seen wandering in the field of their father and two others were keeping vigil, thus, alleges that petitioner and other accused after establishing physical relation killed the daughter and buried the body to conceal the evidence.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the case. It is submitted that from bare perusal of the allegation as alleged in the FIR, it would manifest that the entire allegation hinges around suspicion. It is further submitted that the informant based on suspicion alleges that this petitioner along with his brother and their father and two others may have committed the occurrence as the petitioner along with his brother was seen wandering in the field and their father along with two other were keeping vigil. Learned counsel submits that it absolutely does not stand to reason that if the petitioner would have killed the daughter of the informant then they would not have buried her in their own field creating evidence against them. It is further submitted that informant is not an eyewitness to the occurrence and the petitioner is a young boy of 21 years of age and is languishing in custody since 01.04.2021. It is submitted that since the entire al-



legation hinges around suspicion, hence, the petitioner be enlarged on bail.

Learned A.P.P. for the State vehemently opposes the prayer for regular bail of the petitioner.

Considering the fact that the petitioner is in custody since 01.04.2021, is a person with clean antecedent and charge-sheet has been submitted and the entire allegation hinges around suspicion and even the order impugned apart from recording that postmortem reveals that examination of private part of the victim was suggestive of sexual assault including rape and she died due to asphyxia and shock as a result of throttling does not even remotely suggest that petitioner was involved in the occurrence and also considering the submissions made by the learned counsel for the petitioner, the petitioner, above named, is directed to be released on bail on furnishing bail bond of Rs.10,000/- (Rupees 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 Thakurganj P.S. Case No. 44 of 2021, subject to the condition that one of the bailors shall be the brother (Md. Mahmood Alam) of the petitioner and further if the learned court below comes to a conclusion that after seeking bail, the petitioner is trying to delay the framing of



charge then by a reasoned order, the learned court below will be
at liberty to cancel the bail bond of the petitioner.

(Satyavrat Verma, J)

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