

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67589 of 2021**

Arising Out of PS. Case No.-96 Year-2021 Thana- DESARI District- Vaishali

=====

DHARMENDRA KUMAR SHARMA @ DHARMENDRA SHARMA Son
of Late Ram Nath Sharma Resident of Village- Rasulpur Habib, P.S.- Desri,
District- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

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

For the Opposite Party/s : Mr. Ramchandra Sahni, APP

=====

**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER**

5 25-07-2022 Heard learned counsel appearing on behalf of the
petitioner and learned counsel appearing on behalf of the State.

Let the defect(s), if any, be removed within a period
of four weeks from today.

The petitioner seeks bail in connection with Desari
(Chandpur O.P.) P.S. Case No.96 of 2021 registered for the
offence under Section 302 of the Indian Penal Code.

The accused/petitioner is named in the F.I.R. and is in
custody since 31.08.2021.

The allegation against the petitioner is to commit
murder of his father, where the informant is the brother of the
petitioner, in the background of dispute as regard to appointment
of nominee in a FDR of Rs. 25,000/-.



Learned counsel appearing on behalf of the petitioner submitted that death of the father of the informant was due to accident in his house, after slipping from stairs and statement in this regard has already been made by the informant before Sub Inspector, namely, Siyaram Prasad Yadav at PMCH, Patna on 10.03.2021 at about 11:40 AM. It has further been submitted that subsequently, due to family dispute, the informant changed his version and lodged a written complaint on next day i.e. 11.03.2021, alleging thereunder that murder of his father was committed by the present petitioner, who is none, but the own brother. It has further been submitted that if the contents of the earlier statement of informant dated 10.03.2021 be taken into consideration, no criminal offence is being made out. It has also been submitted that said '*fardbeyan*' dated 10.03.2021 of the informant already communicated to Chandpura O.P., Desari Police Station, despite of that same has not been taken into consideration, during course of investigation and final charge-sheet under Section 302 of I.P.C. has been submitted against the petitioner. While concluding the argument, it has been submitted that petitioner is a man of clean antecedent.

Learned APP, while opposing the prayer of bail, submitted that report of S.P., Vaishali, by way of affidavit in



terms of order dated 11.07.2022 of this Court reveals that statement of the informant recorded on 10.03.2021 at Patna Medical College and Hospital (PMC & H), as regard to accidental death was communicated to Chandpura O.P. of Desari Police Station, Vaishali, on 24.03.2021.

Considering the facts and circumstances as mentioned above, as also the contradictory '*fardbeyan*' of the informant suggesting accidental death, prior to present written complaint, let the petitioner, above named, is directed to be released on bail in connection with Desari (Chandpur O.P.) P.S. Case No. 96 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned C.J.M., Vaishali/concerned court, subject to the following conditions:

“(i) Accused/Petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner duly supported by the documents.

(ii) That one of the bailors shall be Anita Devi, who is the wife of the petitioner and deponent of the present bail petition.”

The affidavit of Superintendent of Police, Vaishali dated 25.07.2022 is available on record, suggesting thereof that '*fardbeyan*' of



the informant dated 10.03.2021 recorded at PMCH, Patna, was received by Chandpura O.P., of Desari Police Station on 24.03.2021.

The report of Superintendent of Police, Vaishali is contradictory *qua* statement of I/O of this case, as made before this Court on last occasion i.e. 11.07.2022.

It further appears that '*fardbeyan*' of informant dated 10.03.2021 was not taken into consideration by the I/O concerned, during course of investigation, suggesting thereof that entire investigation is concluded in mechanical manner.

Let the Superintendent of Police, Vaishali, in view of the fact as discussed above, is directed to enquire the matter in length by fixing the responsibilities and action taken, against concerned person for such negligence, while investigating a heinous offence, as of present.

The report of Superintendent of Police, Vaishali be submitted, positively, within two weeks.

Put up this case on 10.08.2022, awaiting report of Superintendent of Police, Vaishali.

(Chandra Shekhar Jha, J)

S.Katyayan/-

U		T	
---	--	---	--

