

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(BEFORE RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.66708 of 2021**

Arising Out of PS. Case No.-296 Year-2019 Thana- MOTIHARI MUFASIL District- East
Champanan

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SUKHDEO PRASAD S/o Late Ramdeo Prasad, Resident of Village -
Dhekaha Fakira Tola, P.S. - Muffasil, District - East Champanan.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s	:	Mr.Ravi Ranjan, Advocate
For the Opposite Party/s	:	Mr.Sanjay Kumar Singh, A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

2 13-05-2022 Learned counsel for the petitioner undertakes to re-

move the defects as pointed out by the Stamp Reporter within

two weeks after start of normal functioning of this Court.

Heard learned counsel for the petitioner and Mr.
Sanjay Kumar Singh, learned APP for the State.

The petitioner in the present is seeking regular bail in

connection with Muffasil P.S. Case No. 296 of 2019 registered

for the offences punishable under Sections 302, 120(B), 201,
379/34 of the Indian Penal Code. The petitioner is in custody

since 22.07.2021. He has no criminal antecedent. Earlier he was

made an accused in Muffasil P.S. Case No. 04 of 2011 for the

offences under Sections 341, 323, 324, 504 and 506/34 of the

Indian Penal Code in which he has been acquitted by the learned



appellate court in Cr. Appeal No. 40 of 2018.

As per the prosecution story, the four named accused persons namely Subhash Prasad, Sanjay Prasad, Vir Bahadur Prasad and Anup Sah came to the house of the husband of the informant, they talked to the husband of the informant and thereafter the husband of the informant left his house with those four persons. The informant says that her husband told her that Sukhdeo Bhai and Kanhaiya Bhai had called at the Chowk and the informant was comfortable till late night but her husband did not return and his mobile was also not on, then she became afraid and went in search of her husband to Sukhdeo Prasad and Kanhaiya Prasad. In the morning, she came to know that her husband had been murdered and the dead body was lying near the bridge situated at a canal. The motorcycle of the husband of the informant was missing. At this stage, the informant says that earlier there was a case against Sukhdeo Prasad and Kanhaiya Prasad in which they had gone to jail and the father-in-law and the bhai sur of the informant had deposed as witness in the said case. About 15 days back Sukhdeo Prasad and Kanhaiya Prasad had threatened her husband, father-in-law and bhai sur to kill them. On these allegations, the informant says that the petitioner and his brother Kanhaiya Prasad conspired and under the said



conspiracy the accused Subhash Prasad, Sanjay Prasad, Vir Bahadur Prasad and Anup Sah took away the husband of the informant and later on all of them murdered her husband and with an intention to conceal the dead body the same was thrown in the canal.

Learned counsel for the petitioner submits that he has placed on record the judgment of the criminal appeal in which this petitioner and his brother were acquitted from the charges under Section 307 and 323 of the Indian Penal Code. It is submitted that in the said case the informant was one Dasrath Paswan and neither the father-in-law nor the bhaibur of the informant was a witness in the said case. In this regard he has drawn the attention of this Court towards paragraph '5' of the judgment in which the name of the prosecution witnesses are duly mentioned. The name of the father-in-law and bhaibur of the informant is not there.

Learned counsel then submits that admittedly this petitioner had not gone to the door of the informant to request her husband to accompany him. They are other four persons and this petitioner has no relationship with them. It is pointed out that one of them who had gone to the door of the informant namely Subhash Prasad has been granted bail by a learned coordinate



Bench of this Court in Cr. Misc. No. 72693 of 2019 (Annexure '3'). It is further submitted that co-accused Kanhaiya Prasad who is similarly situated with the petitioner is said to have been released on bail by another learned coordinate Bench of this Court in Cr. Misc. No. 34980 of 2021.

On the other hand, Mr. Sanjay Kumar Singh, learned A.P.P. for the State has opposed the prayer for bail of the petitioner. It is submitted that as per the prosecution story, this petitioner had conspired to kill the husband of the informant. Learned A.P.P. is, however, unable to show from the judgment of the criminal appeal (Annexure '2') that the reason for the alleged occurrence as disclosed in the F.I.R. gets substantiated. Neither the father-in-law nor bhaibur of the informant is a witness in the said case and, therefore, enmity on that ground to the extent of killing the husband of the petitioner is not prima-facie appearing from the materials on the record.

Having regard to the submissions noted hereinabove, the materials discussed at length and on finding that the case of the petitioner stands on better footing from the accused Subhash Prasad and at similar footing with co-accused Kanhaiya Prasad, this Court directs release of the petitioner above named on bail on furnishing of bail bonds of Rs. 25,000/- (twenty five thou-



sand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, East Champaran, Motihari in connection with Muffasil P.S. Case No. 296 of 2019, subject to the conditions as laid down under Section 437(3) of the Cr.P.C.

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.

(Rajeev Ranjan Prasad, J)

vats/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

