

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66191 of 2021

Arising Out of PS. Case No.-126 Year-2020 Thana- BHITAHA District- West Champaran

Umashankar Thakur, Son Of Chandrika Thakur, Resident Of Village –
Jhavathiya, Ps- Bhitaha, District - West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Bimlesh Kumar Pandey, Advocate
For the State	:	Mr.Braj Kishore Pd.(APP)
For the Informant	:	Arvind Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 06-09-2022 Heard learned counsel for the petitioner and learned
APP for the State as well as learned counsel for the informant.

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 Bhitaha P.S. Case No. 126 of 2020 registered for the alleged offences under Sections 341, 342, 307, 328, 302, 506 and 34 of the Indian Penal Code.

As per prosecution case, the petitioner and other co-accused persons killed the son of the informant by administering him poison. The occurrence took place in the background of rivalry in business with co-accused Tejamul Miyan.



The learned counsel for the petitioner submits that the whole prosecution case is false and concocted and it is apparent from the FIR that the informant is not an eye-witness. Informant has vividly described the occurrence without naming the person who has told him about the same and such being the case, it shows the informant was not present at the place of occurrence. Learned counsel further submits that even the business rivalry was with co-accused Tejamul Miyan and not with this petitioner, so there was no occasion for the petitioner to get involved in killing the son of the informant. Even during investigation, though the witnesses named this petitioner for being involved in different manner and they stated about the deceased telling them the name of the petitioner as brother of Nandlal Hajam and nephew of Nandlal Hajam, respectively. This fact also shows that the witnesses are not telling the truth. Learned counsel further submits that except for the bland statement of the witnesses, there is no material to connect this petitioner with the alleged offence. Petitioner is in custody since 04.09.2021 and the charge-sheet has been submitted in this case.

Learned APP as well as learned counsel appearing on behalf of the informant vehemently oppose the prayer for bail. Learned counsel appearing on behalf of the informant submits



that the witnesses during examination by the police have named this petitioner that he was the person who administered poison to the deceased.

Perused the records.

Having regard to the submissions made hereinabove and considering the fact that there is nothing on record to show that anyone has seen the occurrence and the petitioner administering poison to the deceased and further considering the lack of substantive material against him and also considering the period of custody of the petitioner along with submission of charge-sheet, 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- 1st, Bagaha, West Champaran, in connection with Bhitaha P. S. Case No. 126 of 2020, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions :

- (i) One of the bailors will be a close relative of the petitioner.
- (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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