

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68302 of 2021

Arising Out of PS. Case No.-80 Year-2017 Thana- BAIRIYA District- West Champaran

Mustafa Mian @ Mustufa Mian @ Mohammad Mustafa, Son of Late Talim Mian Resident of Village - Gajarwa Bazar, Bagahi Tamoliya Tola, Ward No.01, P.s.- Bairiya, Distt.- West Champaran.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Prashant Kumar, Advocate Mr. Arvind Kumar Singh, Advocate Mr. Manaur Alam, Advocate
For the Opposite Party/s	:	Mr.Ramchandra Singh, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 20-09-2022 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 Bairiya P.S. Case No. 80 of 2019 registered for the alleged offences under Sections 302, 201 and 120(B) of the Indian Penal Code.

As per prosecution case, the younger son of the informant was murdered by the petitioner and other co-accused persons due to the illicit relationship of the wife of the deceased



with co-accused Jhagaru.

Learned counsel for the petitioner submits that no occurrence as alleged has ever taken place. The petitioner was a heavy drinker and his wife administered him a mixture of detergent powder and after taking it, he fell ill and while taking him to the hospital he died on his way. Learned counsel further submits that the informant is not an eye witness. The petitioner is made accused in this case merely on suspicion on saying of one Sanjay Patel who himself is not an eye witness. The post mortem report also shows that the death was due to asphyxia due to pressure over respiratory passage. It has come during the investigation that the petitioner is a neighbour of the co-accused Munni Devi and on the alleged date of occurrence, he was not present at the place of occurrence. He had gone to Assam to earn his livelihood. This fact has been corroborated by other witnesses examined during investigation and has been mentioned in the case diary. Learned counsel further submits that similarly situated co-accused Munni Devi and Lochan Patel have been granted bail in Cr. Misc. No. 62821 of 2018 and Cr. Misc. No. 23915 of 2018 vide order dated 22.11.2018 and 19.06.2018, respectively by different Coordinate Benches. Moreover, there is no material to connect this



petitioner with the alleged occurrence. Charge sheet has been submitted in this case and the petitioner is in custody since 11.08.2021.

Learned APP for the State opposes the prayer for bail of the petitioner submitting that due to illicit relationship of the co-accused lady, the wife of the deceased, this occurrence has taken place.

Perused the records.

Having regard to the fact and circumstances and submission made on behalf of the parties and considering the distinct lack of material against this petitioner to connect him with the murder of the son of the informant and further considering his period of custody and submission of charge sheet along with 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-III, Bettiah, West Champaran in connection with Bairiya P.S. Case No. 80 of 2017, 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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