

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69789 of 2021

Arising Out of PS. Case No.-77 Year-2021 Thana- AANDAR District- Siwan

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PRADEEP YADAV @ PRADEEP KUMAR S/o Late Chandrika Yadav R/o
village- Sultanpur, Dahabadi, P.S.- Andar, District- Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Prabhakar Singh, Advocate
For the Opposite Party/s	:	Ms.Nirmala Kumari, APP
For the Informant	:	Mr.Ajay Kumar Tiwari, Advocate

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 26-07-2022 Heard learned counsel for the petitioner, learned
counsel for the informant and learned A.P.P. for the State.

The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 147, 148, 149, 341, 323, 324, 448, 307 and 302 of the Indian Penal Code.

Learned counsel for the petitioner submits that the petitioner is a person with clean antecedent and the informant alleges that the named accused persons, including the petitioner, came to the house of the informant variously armed and thereafter it is alleged that Dimple Yadav and petitioner assaulted the brother of the informant by *lathi* on his head who became unconscious and fell, thereafter it is alleged that the accused persons said that he is still alive on which Dimple and



Pradeep killed his brother by twisting his neck. The other family members including the informant and his son Anuj Kumar were also assaulted and sustained injury.

Learned counsel for the petitioner submits that from bare perusal of the allegation as alleged in the F.I.R. it would manifest that the petitioner and the informant are *patidars* and they are having land dispute, it is next submitted that there is specific allegation in the F.I.R. that petitioner and Dimple Yadav initially assaulted the brother of the informant on his head causing injury on account of which he fell and thereafter they killed him by twisting his neck. Learned counsel submits that from tenor of the allegations as alleged in the F.I.R. it appears that informant is an eyewitness to the occurrence but when the postmortem report of the deceased is perused, it would manifest that no injury was found on the head of the deceased, this amply demonstrates that informant was not an eyewitness to the occurrence. It is further submitted that even the cause of death, as recorded by the doctor, also does not support the prosecution case inasmuch as in the postmortem report it is recorded that ligature mark was found on the neck of the deceased, when the informant in the F.I.R. specifically alleged that the deceased was killed by the petitioner and Dimple Yadav by twisting his neck,



as such the informant does not allege that the deceased was killed by the petitioner and Dimple Yadav by strangulation. Learned counsel submits that in case of hanging/strangulation ligature mark do form on the neck depending on the pressure exerted but in the present case there is specifically no allegation of strangulation by the petitioner and Dimple Yadav. Learned counsel next submits that it appears that occurrence took place in some different manner and the victim took this as an opportunity to falsely implicate the petitioner in order to coerce him for settling the land dispute when informant and petitioner are agnates and are cousin brothers.

Learned A.P.P. for the State and the learned counsel for the informant oppose the prayer for anticipatory bail of the petitioner but are not able to meet the submissions of the learned counsel for the petitioner that no injury was found on the head of the deceased as alleged in the F.I.R. not it is a case that petitioner and Dimple Yadav killed the deceased by strangulation, as such the ligature mark found on the neck does not get corroborated by the allegation as alleged in the F.I.R.

Considering the submissions made by the learned counsel for the petitioner, the petitioner above-named, in the event of his arrest or surrender before the learned court below



within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Andar P.S. Case No. 77 of 2021 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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