

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69910 of 2021

Arising Out of PS. Case No.-370 Year-2020 Thana- ARWAL District- Jehanabad

RAHUL TIWARI @ RAMLAL TIWARY Son of Sati Tiwari Resident of
Village - Bherhariya English , P.S.- Paliganj, Distt.- Patna.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ravi Prakash, Advocate

For the Opposite Party/s : Mr.Aditya Narayan Singh.1, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 26-04-2022 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks bail in a case registered for the offences punishable under Sections 302 and 34 of the Indian Penal Code.

Learned counsel for the petitioner submits that the petitioner is in custody since 15.05.2021, is a person with clean antecedent and charge-sheet has been submitted in the case.

Learned counsel for the petitioner submits that informant alleges that on 27.10.2020 at 7:00 pm, Jitesh Kumar called his son (deceased) by calling him on his mobile, further his son while leaving the house disclosed to his mother that Jitesh has called him and will return soon further, his son did not return so he thought that he might have slept at Jitesh's place. It is further alleged that on the next morning, the informant came



to know that his son is lying in an injured condition in the brick kiln of Ramayan Singh and his son was taken for treatment and was referred to PMCH. Further alleged that his son disclosed the name of the accused persons, including the petitioner, who assaulted him and his son died during the course of treatment.

Learned counsel for the petitioner submits that from perusal of the allegation as alleged in the FIR it would manifest that the date of occurrence is 27.10.2020 and the *ferdbeyan* was recorded on 08.11.2020. It is further submitted that though the informant in the FIR alleges that his son (deceased) disclosed that the named accused persons, including the petitioner, had assaulted him but the FIR is completely silent as to when the deceased disclosed the said fact to the informant. It is also submitted that if the deceased was in a position to speak and disclose about the occurrence, then why his *ferdbeyan* was not recorded by the police and if the deceased was admitted in the hospital and it was a police case, then why the police was not informed when the informant admitted the deceased in the hospital. Learned counsel submits that informant by way of afterthought has implicated the petitioner because it does not stand to reason that if the deceased was in a condition where he could speak then definitely the FIR would have been instituted



based on his *ferdbeyan*. It is further submitted that from perusal of the allegation also it would manifest that the nature of allegations as alleged against the petitioner is general and omnibus in nature.

Learned A.P.P. for the State opposes the prayer for bail of the petitioner but is not able to meet the submission of the learned counsel for the petitioner that as to why the *ferdbeyan* came to be recorded after a delay of more than eleven days when the deceased was in a condition to speak.

Considering the fact that the petitioner is in custody since 15.05.2021, is a person with clean antecedent, charge-sheet has been submitted in the case and taking into consideration the submissions advanced by the learned counsel for the petitioner, let the petitioner above named be released on bail on furnishing bail bond 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 Arwal P.S. Case No. 370 of 2020.

(Satyavrat Verma, J)

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