

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70956 of 2021

Arising Out of PS. Case No.-26 Year-2021 Thana- BALTHAR District- West Champaran

SAHEB SAH @ ABHAY KUMAR Son of Musai Sah Resident of village -
Murali, P.S.- Balthar, District - West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Umesh Chandra Verma
For the Opposite Party/s	:	Mr.Anil Kumar, APP
For the informant	:	Mr. Sanjeev

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 05-05-2022 Heard the learned counsel for the petitioner, the
learned APP for the State and learned counsel for the informant.

The petitioner seeks bail in a case registered for the
offences under Section 302/34 of the Indian Penal Code.

The learned counsel for the petitioner submits that the
petitioner is in custody since 16.03.2021, he is a person with
clean antecedent, charge-sheet has been submitted and is a
young boy of 21 years of age and the informant alleges that his
son had gone to see a fair where a dance programme was going
on, further his son sat in the front to see the programme where
his uncle also sat, further during programme, the petitioner who
is a friend of his son called him and both went somewhere,
further his son did not return in the night and in the next



morning when informant started searching, he came to know that a dead body was thrown in Lakhaura area, accordingly the informant reached the place of occurrence and found his son dead body, thus alleges that on account of previous dispute as mentioned in the FIR, the named accused persons called his son through the petitioner and killed him.

The learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case, the informant is not an eye witness to the occurrence, the entire allegation hinges around suspicion, it is also submitted that admittedly from the FIR, it can be culled out that the uncle of the deceased was sitting near the deceased and he saw the petitioner asking the deceased to accompany him on account of which the deceased left with petitioner, it is submitted that since the uncle had seen and if he had any apprehension that the petitioner might commit an occurrence with the deceased then definitely he along with informant would have searched the deceased when he did not return home in the night but from perusal of the allegation as alleged in the F.I.R., it would manifest that neither the informant nor his brother had any apprehension that deceased accompanied the petitioner and as such they did not search the deceased during the night and in the



next morning they came to know that dead body of the deceased was found. The learned counsel submits that even presuming what has been alleged is true without admitting for the purpose of bail then the allegation against this petitioner is of calling the deceased who accompanied him and thereafter it is alleged that the accused person on account of enmity as detailed in the FIR committed the occurrence, the learned counsel submits that during the course of investigation, it came that one Deepak was arrested who disclosed that the mobile of the deceased was given by the petitioner to him based on which the petitioner got connected with the offence. Further, he disclosed that the deceased along with Deepak, petitioner and other co-accused were feasting when some altercation took place based on which this petitioner strangled the deceased. The learned counsel submits that the confession of Deepak is self exculpatory and as such does not have any evidentiary value. Learned counsel further submits that as far as this petitioner is concerned except for confession, there is nothing against him and there is no eye witness to the occurrence.

The learned A.P.P. for the State and learned counsel for the informant vehemently opposes the bail application and learned counsel for the informant submits that co-accused



Deepak in his confession has disclosed that it was the petitioner who killed the deceased but then he is not able to meet the submission of learned counsel for the petitioner that the statement of Deepak is self exculpatory statement which as such does not have evidentiary value in the eyes of law.

Considering the fact that the petitioner is in custody since 16.03.2021, he is a person with clean antecedent, charge-sheet has been submitted and is a young boy of 21 years of age and his name in the occurrence came based on a self exculpatory statement of co-accused, the petitioner, above-named, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Court below where the case is pending in connection with learned Additional Chief Judicial Magistrate-IV, Bettiah, West Champaran, with a condition hat one of the bailor shall be his father (Sri Musai Sah)

The application stands allowed.

(Satyavrat Verma, J)

sanjeev/-

U		T	
---	--	---	--

