

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71076 of 2021

Arising Out of PS. Case No.-466 Year-2020 Thana- GARKHA District- Saran

Law Kush Kr. @ Lawkush Kumar Rai, S/O Rambabu Rai R/O Village-
Kotheya Pran Rai Ke Tola, P.S.- Awatar Nagar, District- Saran

... .. Petitioner/S

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shailendra Kumar Singh

For the Opposite Party/s : Mr. Satyendra Narayan Singh

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 12-05-2022 Heard learned counsel for the petitioner and learned
APP for the State.

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

The learned counsel for the petitioner submits that the
petitioner is in custody since 21.09.2020, he is a person with
clean antecedent and charge-sheet has been submitted in this
case. The learned counsel submits that the date of custody in the
impugned order is recorded as 29.09.2020, but the learned
counsel for the petitioner has instruction that petitioner was
arrested on 21.09.2020.

The learned counsel for the petitioner submits that the
informant (Sonu Kumar) alleges that step-mother, step-sister



and step-maternal uncle of Vicky Kumar (deceased) had come from Delhi. The informant reserved an auto for them for sending them home. Further the maternal uncle (Vivek Kumar) of Vicky Kumar had called Law Kush Kr. @ Lawkush Kumar Rai (petitioner) and he went with him by motorcycle towards Mohammada where four persons were waiting from before.

It is next alleged that thereafter, all the accused hurled abuses and assaulted Vicky Kumar and killed him by strangulating and informed the informant that the victim died due to motorcycle accident.

The learned counsel for the petitioner submits that the petitioner has been falsely implicated in the case. There is no eye witness to the occurrence and the entire allegation hinges around suspicion, even the informant also is not an eye witness to the occurrence and as such, it absolutely does not stand to reason that how the informant in the F.I.R. alleges that abuses were hurled at Vicky Kumar and he was killed by strangulation when the accused persons had informed him that he died due to motorcycle accident. It is further submitted that as far as this petitioner is concerned, except for suspicion, there is nothing against him.

Learned A.P.P. opposes the bail application and



submits that it is true that there is no eye witness to the occurrence, but it is not that every offence required an eye witness. At time even the circumstances suggests and points towards complicity of an accused in an offence. It is further submitted that it is admitted that father of Vicky Kumar had died about five days back and accordingly, his step-mother, step-sister and step maternal uncle had come from Delhi. It is thus submitted that after the death of Vicky Kumar, the property of his father would have devolved upon Vicky Kumar as well as his step-sister, but after the death of Vicky Kumar, the entire property of his father would devolve on his step-sister alone.

The learned A.P.P. thus submits that the beneficiary of the death of Vicky Kumar would be the own niece and sister of Vivek Kumar, who had called the petitioner as alleged in the F.I.R. It is also submitted that Vivek Kumar tried to mislead the informant by informing that Vicky Kumar died on account of motorcycle accident, but the post mortem report clearly records that the death was due to strangulation. It is also submitted that the bail application of Vivek Kumar was rejected by order dated 16.02.2022 in Cr. Misc. No.54574 of 2021.

The learned counsel for the petitioner, rebutting the submissions of the learned A.P.P., submits that the case of the



petitioner is on a completely different footing from that of Vivek Kumar. It is submitted that Vivek Kumar may have committed the occurrence, though there is no witness to the occurrence, but then the circumstance and motive suggests that after the death of Vicky Kumar, the beneficiary would have been his niece, but as far as this petitioner is concerned, it is alleged that he was called by Vivek Kumar, but then neither the informant, nor during the course of investigation, any witness has come forward to substantiate that they had seen the petitioner also committing the occurrence. It is thus submitted that petitioner had absolutely no motive to kill the deceased when Vivek Kumar might be nursing some motive against him. It is also submitted that petitioner is a person with clean antecedent and in absence of motive why would he have participated in the occurrence in killing of the deceased, when he had no interest. It is also submitted that at the cost of repetition that as far as this petitioner is concerned, the entire allegation hinges around suspicion on the allegation that he was called by Vivek Kumar.

Considering the fact that the petitioner is in custody, he is a person with clean antecedent, charge-sheet has been submitted in this case and taking into consideration the submissions of the learned counsel for the petitioner, 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 Sessions Trial No.466 of 2021 arising out of Garkha P. S. Case No.466 of 2020.

The application stands allowed.

(Satyavrat Verma, J)

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