

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72060 of 2021**

Arising Out of PS. Case No.-175 Year-2020 Thana- JALALPUR District- Saran

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PANKAJ KUNWAR @ PANKAJ KUMAR Son of Shivji Kunwar Resident of
Village - Kishunpur, P.S.- Jalalpur, Distt.- Saran at Chapra.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Abhay Kumar Pandey, Advocate.
For the Opposite Party/s	:	Mr. Satyendra Narayan Singh, APP.
For the Informant	:	Mr. Manoj Vatsal, Advocate.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 08-09-2022 Learned counsel for the petitioner is permitted to
remove defect(s), as pointed out by the office, if any, within a
period of four weeks from today.

The matter is being listed on the urgent motion slip
filed by the learned counsel for the petitioner praying that the
wife of the petitioner is suffering from various ailments and her
treatment is going on at Varanasi and save and except there is
no-one to look after her.

Heard Mr. Ajay Kumar Sharma, learned counsel for
the petitioner, Mr. Manoj Vatsal, learned counsel for the
informnat as well as Mr. Satyendra Narayan Singh, learned
Additional Public Prosecutor for the State.

The application for grant of bail to the petitioner,



above named, who has been made accused and put behind the bar in connection with Jalalpur P. S. Case No. 175 of 2020 registered for the offences punishable under Sections 302, 201 and 34 of the Indian Penal Code.

The prosecution case is based on a written complaint filed by the informant alleging therein that on 09.09.2020 at about 09:00 P.M., the son of the informant went to visit his pond but he did not return till 04:00 P.M., then search was made but could not find the whereabouts the son of the informant. Later on, the dead body was found in the pond and it is suspected that his son has been killed by pressing his neck. It is also alleged that F.I.R. named accused persons and others killed his one and thrown his dead body in the pond.

Learned counsel appearing on behalf of the petitioner submitted that there is no eye-witness to the alleged occurrence and admittedly the occurrence has taken place in the night on 09.09.2020 and thereafter, inquest report was prepared on 10.09.2020 at about 09.15 P.M. and the seizure list has been prepared at 03:00 P.M. on 10.09.2021 itself but at the point of time neither any fardbayan of the informant was recorded nor any case has been instituted, however, the present F.I.R. has been instituted on 11.09.2020 at 06:30 P.M. without assigning



any reason for delay, which fact shows that the F.I.R. is based on celebration and after thought. It is next submitted that the post mortem report would suggest the cause of death asphyxia due to drowning and no external injury has been found over the body of the deceased. It is further submitted that having taken into account the aforesaid facts two of the accused persons, who are named in the F.I.R., have already been granted bail by this court in Cr. Misc. No. 9546 of 2022 vide order dated 25.08.2022. So far this petitioner is concerned, he is not named in the F.I.R., however, during the course of investigation, his name has surfaced in the supervision note, which has no material appearing over the issue. It is last submitted that the petitioner is in custody since 15.09.2021.

On the other hand, learned counsel for the informant vehemently opposes the bail application and submits that during the course of investigation materials have come which suggests the complicity of the petitioner.

Learned APP for the State also oppose the bail application and submits that the petitioner is found involved in one another criminal case.

Regard being had to the fact that the co-accused persons named in the F.I.R. having more or less specific



allegation, they have been allowed the privilege of bail and so far this petitioner is concerned, he is in cusoty since 15.09.2021, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate- 13, Saran at Chapra in connection with Jalalpur P. S. Case No. 175 of 2020, subject to the condition that one of the bailors will be the close relative of the petitioner with further conditions which are as follows:-

- (i) The petitioner will cooperate in conclusion of the trial.
- (ii) He will remain present on each and every date of trial till disposal of the case.
- (iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.
- (iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.
- (v) The Court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed



his criminal antecedent, the court below shall take step for cancelling of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Harish Kumar, J)

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