

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3535 of 2022

Arising Out of PS. Case No.-330 Year-2021 Thana- CHHATAUNI District- East Champaran

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VIKEY KUAMR @ SANTLAL SHA @ SANTLAL SAH Son of Lalbabu
Sha @ Lalbabu Sah Resident of Mohalla- Mathiya, P.S.- Chhatauni, District-
East Champaran, Motihari.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Rajesh Ranjan, Advocate
	:	Mr.Atul Shankar, Advocate
For the Opposite Party/s	:	Mr.Kumar Veerendra Narayan, APP

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

6 09-01-2023 Heard the learned counsel for the

petitioner and the learned A.P.P. for the State.

The petitioner seeks regular bail in
connection with Chhatauni P.S. Case No. 330 of
2021 for the offence registered under Sections 394
and 302 of the Indian Penal Code.

The case of the prosecution, in brief,
according to the informant is that his aged father
used to live at his ancestral house situated at the
lane of Khudanagar, S.B.I. Market Branch and for
looking after his father, one servant, namely,
Raushan was deputed, who got in contact with
some anti-social elements. It is further alleged that



on 25.08.2021, at about 8:21 P.M. in the night, the said Raushan had called the brother of the informant, namely, Suraj on his mobile phone and told him to come to the house immediately since some criminals had reached there, whereafter the informant had informed the police and, thereafter, he alongwith his brother had reached the house of their father where they found that the mouth, neck, hands and feets of their father had been tied with a tape and he had been inflicted cut injuries on various parts of the body, whereupon the father of the informant was declared dead by the doctor. It is also alleged that the almirah in the said house had been opened and the articles had been looted by the miscreants.

The learned counsel for the petitioner has submitted that the petitioner is innocent, he has been falsely implicated in the present case and he is languishing in custody since 06.09.2021. It is further submitted that the petitioner is an accused in four other cases but he is on bail in all of them. The learned counsel for the petitioner has further



submitted that there is no eye-witness to the alleged occurrence and the entire accusation qua the petitioner herein is based merely upon the confessional statement made by one Pradeep Kumar Kushwaha and one Pappu Kumar. It is also submitted that neither any Test Identification Parade has been held so as to connect the petitioner with the alleged crime nor any Test Identification Parade of the looted articles, recovered from various accused persons, has been conducted so as to ascertain that the articles recovered from the accused persons, are the ones looted from the house of the deceased. Lastly, it is submitted that except the confessional statement made by the co-accused persons/ the petitioner herein, there is no material on record to prima facie suggest any complicity of the petitioner in the alleged crime.

Per contra, the learned A.P.P. for the State has vehemently opposed the prayer for bail and has submitted that the petitioner has also confessed his guilt, hence no sympathy should be



shown towards him, since one person has died on account of cut injuries inflicted on his body.

A report of the Additional District and Sessions Judge-12, East Champaran at Motihari dated 20.12.2022, has also been placed before this Court, wherein it has been stated that charges have already been framed under Section 396 of the Indian Penal Code, against the accused persons and though the trial is pending for prosecution evidence, however, no prosecution witness has been examined till date.

I have heard the learned counsel for the parties and gone through the materials on record as also have perused the case diary made available to this Court. This Court has also gone through the F.S.L. report, kept on the record of this case and a bare perusal of the report of the Forensic Science Laboratory, Bihar, Muzaffarpur dated 21.10.2022, shows that no Metallic, Alkaloidal, Glycosidal, Pesticidal or Volatile poison has been detected in the contents of all twelve small plastic containers marked '1 to 12'. This



Court, thus, finds that there is minuscule evidence in the case diary to prima facie suggest the complicity of the petitioner in the alleged crime, apart from the fact that the theory of the deceased being made unconscious by injecting certain medicines by syringe also stands belied in view of the F.S.L. report, as aforesaid. This Court also finds that there is no eye-witness to the alleged occurrence and merely on the basis of confessional statement of the co-accused persons, the petitioner has been falsely implicated in the present case. Lastly, this Court finds that the petitioner is languishing in custody since 06.09.2021, nonetheless, the fact remains that though charges have already been framed by the learned Court below but till date, not even a single witness has been examined, thus there is no chance of completion of the trial in near future. Under such circumstances, I deem it fit and proper to admit the petitioner to the privilege of regular bail.

Accordingly, the petitioner, above named,



is directed to be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, East Champaran, Motihari in connection with Chhatauni P.S. Case No. 330 of 2021.

(Mohit Kumar Shah, J)

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