

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18139 of 2022**

Arising Out of PS. Case No.-324 Year-2019 Thana- MAKHDUMPUR District- Jehanabad

Rakesh Kumar @ Rakesh Yadav, aged about 30 years, Male, S/O Dinesh Yadav @ Dinesh Kumar R/o village- Chhajopur, P.S.- Makhdumpur, District- Jehanabad

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ram Sewak Prasad, Adv.

For the Opposite Party/s : Mr. Bal Mukund Prasad Sinha, APP

**CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER**

3 02-01-2023 Heard learned counsel for the petitioner and learned APP for the State.

Let the defect(s), as pointed out by the office, be removed within a period of four weeks.

In the present case, the petitioner seeks bail in connection with S.Tr. No. 336/2021, 128/2021 arising out of Makhdumpur P.S. Case No. 324 of 2019 registered for the alleged offences under Sections 328, 302 and 34 of the Indian Penal Code.

As per prosecution case, the petitioner and other co- accused persons took away the father of the informant with them and thereafter left his body in-front of the house of the informant who found froth was coming out of his mouth. The informant showed his suspicion that the petitioner and other co-accused persons administered poison to his father and threw the dead body at the doors of the informant.

The learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. No occurrence as alleged has ever taken place. There is no eye-witness to the alleged occurrence and the petitioner has been falsely



implicated in this case. Allegation against him is general and vague. In fact, the informant quarreled with his father who went to market and bought poison and consumed the same and died as a result thereof. Due to old enmity, the informant falsely implicated the petitioner. The petitioner is in custody since 09.09.2021 and charge-sheet has been submitted in this case. The petitioner is having clean antecedent.

Learned APP opposes the prayer for bail submitting that the informant has made specific allegation against the petitioner and other co-accused persons and the same has been supported by the witnesses in paragraphs 5, 6, 7, 8, 9 and 10 of the case diary. The examination of viscera also shows presence of a poisonous substance 'Celphos'.

Perused the records.

Having regard to the facts and circumstances, this Court is inclined to accept the submissions made on behalf of the petitioner regarding improbability of participation of the petitioner, absence of substantive material on record to connect the petitioner with the alleged occurrence; and also the clean antecedent of the petitioner along with his period of custody and submission of charge-sheet, for the limited purpose of grant of bail pending trial, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned A.D.J.- III Jehanabad in connection with S.Tr. No. 336/2021, 128/2021 arising out of Makhdumpur P.S. Case No. 324 of 2019, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions:

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.



(iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Madhuresh Prasad, J)

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