

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31533 of 2022

Arising Out of PS. Case No.-892 Year-2021 Thana- KUDHNI District- Muzaffarpur

Pradeep Kumar @ Puriya Son Of Birendra Paswan R/O- Vill- Sakari Saraiya
P.S.- Kudhani (TURKI O.P.) Dist.- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Raj Kishore Prasad, Advocate
For the Opposite Party/s :	Mr. Ramchandra Singh, APP
For the Informant :	Mr. Krishna Kant Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 25-01-2023 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Raj Kishore Prasad, learned counsel appearing on behalf of the petitioner, Mr. Krishna Kant Singh, learned counsel for the informant and learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Kudhani (Turki O.P.) P.S. Case No. 892 of 2021 registered for the offences punishable under Sections 363, 302/201/34 of the Indian Penal Code.

The prosecution case is based on a written report filed by the informant alleging therein, that on 03.12.2021, the nephew of the informant namely, Binay Kumar, while he was



going to his house after closing the shop, in the meantime, co-accused 'Vikash Kumar' and 'Raja Babu' came there and took him away to drink wine. It is further alleged that in the way, other accused persons, including the petitioner, also met together and went at a distant place to have the liquor which has also been witnessed by one 'Durgesh Kumar'. In the next morning, the dead body of the 'Vinay Kumar' was found in a sack, whose hands and legs were tied and his mouth was fully covered with cellotape. It is also alleged that the reason behind his murder was love affair between the deceased and 'Soni Kumari', daughter of Surendra Paswan.

Learned counsel appearing on behalf of the petitioner submits that from the FIR it is evident that there is no eyewitness to the alleged occurrence and so far the statement of 'Durgesh Kumar' is concerned, save and except the statement that the petitioner and others were seen along with the deceased, there is nothing against him. He further submits that the alleged occurrence took place on 03.12.2021, however, the present FIR has been instituted on 06.12.2021, after a delay of three days and, as such, the FIR is nothing but a piece of afterthought and the fact of false implication cannot be ruled out. He next submits that one co-accused 'Vikash Kumar' who was also seen



along with the deceased before the occurrence, he has been allowed the privilege of bail by learned co-ordinate Bench of this Court vide order dated 18.01.2023 in Cr. Misc. No. 23621 of 2022, the copy of which has been submitted before this Court and the same has been taken on record. He next submits that though during the course of investigation, the girl 'Soni Kumari' with whom allegedly there was relationship of the deceased, had disclosed that the deceased was killed by the family members but she did not disclose the name of the person who were involved in the present crime. He lastly submits that the petitioner, having fair antecedent, is in custody since 07.12.2021.

On the other hand, learned counsel for the informant vehemently opposes the bail application and submits that the girl 'Soni Kumari' specifically stated that the family members have killed the deceased and this petitioner is cousin of the 'Soni Kumari' and her complicity cannot be ruled out, apart from the fact that the deceased was killed in such a brutal manner that no leniency can be granted even while granting bail. He further submits that so far the co-accused, 'Vikash Kumar' is concerned, his case is different to that of the petitioner.



Learned APP for the State also opposes the bail application and submits that materials have come during the course of investigation suggesting the complicity of the petitioner in the present crime.

Regard being had to the submissions made on behalf of the parties and considering the factum of delay in lodging of the FIR and moreover, there is no eyewitness to the alleged occurrence and investigation is already complete apart from the fact that one of the co-accused persons, having more or less similar allegation has been allowed the privilege of bail and the petitioner having fair antecedent, let the petitioner, named above, 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, 1st, Muzaffarpur West in connection with Kudhani (Turki O.P.) P.S. Case No. 892 of 2021, subject to the condition that one of the bailors will be the close relatives 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.

(Harish Kumar, J)

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