

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34425 of 2023

Arising Out of PS. Case No.-132 Year-2019 Thana- RAJEPUR District- East Champaran

Rambabu Prasad Bhagat Son Of Shakar Bhagat @ Shankar Prasad R/O-
Narayanpur, P.S.-RAJEPUR, Distt.-EAST Champaran

... .. Petitioner/S

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ashok Kumar Mishra

For the Opposite Party/s : Mr.Sanjay Kumar Tiwary

CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
ORAL ORDER

3 10-08-2023 Heard learned counsel for the petitioner, learned
counsel for the informant and learned APP for the State.

The petitioner has prayed for regular bail in a case registered for the offence punishable under sections 302, 120B, 34 of the Indian Penal Code.

As per prosecution case, the allegation against the accused persons including the petitioner is that they committed murder of the informant's husband by means of several deadly weapons.

Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence. The informant is not an eye witness of the alleged occurrence and merely on the basis of hearsay statement the petitioner has falsely been implicated in this case. The present FIR of Rajepur



P.S. Case No. 132 of 2019 was lodged on 02.10.2019 at 07:00 p.m. and Rajepur P.S. Case No. 131 of 2019 dated 02.10.2019 was lodged by one Shivam Chaudhary, S.I. Rajepur on 02.10.2019, at 09:00 a.m.. In his written report he stated that on 01.10.2019 at about 03:00 p.m. he along with police party was on patrolling duty and at about 03:45, he received secret information that one person has been killed near Bank of India and one culprit has been caught by the villagers. On interrogation, the arrested culprit disclosed his name as Mukesh Kumar, son of Birendra Prasad of Madhuaha. In presence of two witnesses the apprehended person was searched and from his possession total 7 cartridges were recovered and near the dead body one chhura and four feet long iron pipe were also recovered. The name of the deceased was not disclosed in the FIR though the seizure list was prepared in presence of Surendra Prasad (the brother of the deceased) and certain weapons were seized near the dead body. It is submitted that the dead body was found in Rajepur P.S. Case No. 137 of 2019, but the Inquest Report was prepared in Rajepur P.S. Case No. 132 of 2019, which was lodged after 28 hours of the recovery of the dead body. The occurrence took place on 01.10.2019, at 03:00 p.m. and the informant got information at 05:00 p.m. on 01.10.201,



but the FIR was lodged after inordinate delay of more than 24 hours on 02.10.2019 at 07:00 p.m.. It is further submitted that two brothers of the deceased i.e. Surendra and Mahendra saw the occurrence or they were present near the dead body, but they did not bother to lodge the FIR, though Surendra was FIR witness as well seizure list witness. The petitioner is languishing in judicial custody since 09.10.2021.

Learned APP appearing for the state and learned counsel for the informant have vehemently opposed the prayer of regular bail.

Having heard learned counsel for the parties and considering the facts and circumstances of the case as well as custody, this court is inclined to enlarge the petitioner on bail. The above named petitioner is directed to be released on bail in connection with Rajepur P.S. Case No. 132 of 2019 on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned C.J.M., Motihari.

(Sunil Kumar Panwar, J)

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