

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35006 of 2023

Arising Out of PS. Case No.-728 Year-2020 Thana- MUFFASIL District- West Champaran

Alok Kumar Son of Mahesh Mahto Resident of Village - Singhachhapar, P.S.-
Bettiah Muffassil, District - West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sumit Kumar, Advocate
		Mr. Brajesh Kumar Singh, Advocate
For the Opposite Party/s :		Mr. Md. Mushtaque Alam, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 28-08-2023 Heard the parties.

2. The petitioner is in judicial custody in connection with Bettiah Muffasil P.S. Case No. 728 of 2020, giving rise to Sessions Trial No.802 of 2022, for the offences punishable under Sections 302/201/34 lodged on 20.11.2020 by the informant, Devnath Sah.

3. As per the prosecution story, the allegation is that one Upendra Kumar who had undertaken tuition job failed to return and later dead body was recovered. Alleging role of one Kishori Jaiswal, the FIR was lodged.

4. Subsequently, the police investigated the matter and role of this petitioner as also Faiyaj Alam and Ravi Alam cropped up. Ravi Alam was picked up who made confession



narrating the fact that he was in relationship with a girl, deceased Upendra Kumar off late had also started sending overtures to her. This resulted into him planning with the accused persons and finally on the fateful day, killed him and the dead body was thrown and his mobile phone having been destroyed and thrown in the river.

5. Learned APP has taken this Court to paragraph-100 of the case-diary which has come consequent to the last order by earlier Bench and it shows that Ravi Alam had described each and every facts of the case leading to the killing of Upendra Kumar.

6. Prima facie, this Court is satisfied that the petitioner was one of the accused involved in the crime. However, the learned counsel for the petitioner on the other hand has provided the two orders of coordinate benches to show that the said Ravi Alam on whose confession he has been picked up as also one Faiyaz Alam have since been granted bail in Cr. Misc. No.12326 of 2022 and Cr. Misc. No.21811 of 2023 respectively.

7. To this, learned APP submits that from one of the said order, it is clear that accused Faiyaz Alam has no criminal antecedent whereas this petitioner is an accused under Section



302/34 of the Indian Penal Code relating to Bettiah Muffasil P.S.
Case No.181 of 2018.

8. Considering the fact that this case is slightly different from the other cases in which the accused persons have been granted bail. However, considering the fact that he is in custody since 23.01.2023 (para-10 of the petition), this Court is forced to extend the privilege of bail to the petitioner, however, only after framing of the charges.

9. Let the petitioner, above named, be released on bail after framing of the charges on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of like amount each to the satisfaction of learned Additional Sessions Judge-VIII, Bettiah, West Champaran, in connection with Bettiah Muffasil P.S. Case No. 728 of 2020, giving rise to Sessions Trial No.802 of 2022, subject to the following conditions:

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his bona fide;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial Court itself;



(iii) the petitioner shall appear before the concerned police station every fortnight for next six months to mark his attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

10. With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

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