

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39223 of 2022

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

PAPPU KUMAR @ PAPPU KUMAR SAH S/o Bhikhari Sah R/o village-
Amar Chhatauni, P.S.- Muffasil Motihari, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bal Govind Sharma, Advocate

For the Opposite Party/s : Mr.Raj Ballabh Singh, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 11-01-2023 Heard the learned counsel for the petitioner
and the learned APP for the State.

The petitioner seeks regular bail in connection with Chhatauni PS case no. 330 of 2021 instituted for the offences punishable under Sections 394, 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 Kumar 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 Kumar 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 submits that the petitioner is innocent, has been falsely implicated in the present case and he is languishing in custody since 29.01.2022. The learned counsel for the petitioner has further submitted that the petitioner is accused in two other cases but he is on bail in one of them. It is 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 of one Pradeep Kumar Kushwaha. It is also submitted that neither any test identification parade has been held so as to connect the petitioner with the alleged crime and moreover, no looted articles have been recovered



from the petitioner. Lastly, it is submitted that except the confessional statement made by the co-accused persons/ petitioner herein, there is no material on record to *prima facie* show the complicity of the petitioner in the alleged crime.

Per contra, the learned APP for the State has vehemently opposed the prayer for bail and has submitted that the petitioner has confessed his guilt as also one person has died on account of cut injuries inflicted on his body, hence, no sympathy may be shown to the petitioner.

I have heard the learned counsel for the parties and gone through the materials on record as also perused the case diary, from which, this Court finds that similarly situated co-accused person has already been granted bail by this Court vide order dated 09.01.2023, passed in Cr. Misc. no. 70401 of 2021 and other analogous cases, wherein it has been recorded that F.S.L. report had been made available to the Court and from perusal of the said report dated 21.10.2022, it is apparent that no Mettalic, Alkaloidal, Glycosidal, Pesticidal or Volatile poison could be detected in the contents of all twelve small plastic containers. This Court also finds that minuscule evidence is available in the case diary to *prima facie* connect the petitioner with the alleged crime, apart from the theory of



the deceased being made unconscious by injecting certain medicines by syringe being belied in view of the F.S.L. report, as aforesaid. Moreover, there is no eye-witness to the alleged occurrence and merely upon the confessional statement of the co-accused persons, the petitioner has been implicated in the present case. The petitioner is stated to be languishing in custody since 29.01.2022 and now the charges have also been framed by the learned court below against the petitioner and other accused persons and after framing of charge, not even a single witness has been examined. Under such circumstances I deem it fit and appropriate to admit the petitioner to the privilege of bail.

Accordingly, the abovenamed petitioner is directed to be released on regular bail on furnishing bail bond of Rs. 10,000/- (Rs. Ten thousand) with two sureties of the like amount each to the satisfaction of learned C.J.M., Motihari, East Champaran in connection with Chhatauni PS case no. 330 of 2021.

(Mohit Kumar Shah, J)

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