

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46328 of 2022

Arising Out of PS. Case No.-133 Year-2021 Thana- MIRGANJ District- Purnia

Sanjay Kumar Mahato @ Golu Kumar Son of Bhagwat Lal Mahto Resident
of Village - Sanjha Ghat, Ward No.10, P.S.- Mirganj, Distt.- Purnea.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. N.K. Agrawal, Sr. Adv.
Dr. Bidhu Ranjan, Adv.

For the Opposite Party/s : Mr. Kumar Rajdeep, Adv.
Mr. Satyendra Narayan Singh, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 13-02-2023 Heard Mr. N.K. Agrawal, learned counsel appearing
on behalf of the petitioner duly assisted by Dr. Bidhu Ranjan,
learned counsel and Mr. Satyendra Narayan Singh, learned
Additional Public Prosecutor for the State.

The petitioner seeks regular bail, who is in custody
in connection with Mirganj P.S. Case No. 133 of 2021 registered
for the offences punishable under Sections 147, 341, 323, 302
and 504 of the Indian Penal Code.

It has been alleged that all the accused persons
including the petitioner on account of old dispute entered into
the house of the informant and assaulted his wife by means of
fists and slap. It has further been alleged that this petitioner
forcibly administered poison to her wife, due to which, she



became unconscious. Having received information, the informant rushed to his house and took away his wife to the hospital, where doctor declared her brought dead.

Learned senior counsel appearing on behalf of the petitioner submits that from the tenor of the FIR, it is evident that the informant is not an eyewitness to the alleged occurrence, apart from the fact that he was all along present during preparation of the inquest report and also put his signature in the inquest report, but he did not bother to submit his written report nor his *fardebayan* was recorded by the police and, after a delay of 24 hours, the present FIR has been registered implicating the name of the petitioner. He further submits that during the course of investigation, it has come that there was a dispute in relation to election wherein the informant had threatened the petitioner and other co-accused persons to implicate their names in a false case. He has drawn the attention of this Court towards the postmortem report which clearly falsifies the prosecution case, whereas the case of death has been shown to be cardiac arrest due to asphyxia caused by palmar strangulation. Lastly, he submits that the petitioner is in custody since 28.03.2022 and now the investigation is complete.

On the other hand, learned counsel for the State



vehemently opposes the bail application and submits that the materials have come during 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 fact that the informant is not an eyewitness to the alleged occurrence as also the postmortem report belies the prosecution case, apart from delay in the FIR coupled with the period of custody, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned J.M. 1st , Class, Purnea in connection with Mirganj P.S. Case No. 133 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.

(v) The court below shall verify the criminal antecedent of the petitioner and, in case, at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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