

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52887 of 2023

Arising Out of PS. Case No.-126 Year-2019 Thana- SILAO District- Nalanda

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Kundan Kumar, Son of Karu Singh @ Aashish Singh @ Ramashish Singh,
Village Ghostawan, P.S- Silao, Dist- Nalanda

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Arun Kumar, Advocate

For the Opposite Party/s : Mr.Nirmal Kumar Sinha, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 19-08-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. In the present case, the petitioner is apprehending his arrest in connection with Silao P.S. Case No. 126 of 2019, registered for the alleged offences under Sections 302/34 of the Indian Penal Code.

3. As per prosecution case, in the background of dispute over drainage of rain-water, some altercation and scuffle took place between the informant and some of the co-accused persons. Later on, the co-accused Satish Singh threatened the father of the informant. Further allegation made by the informant is that in the night at around 1.30 A.M., the petitioner and other co-accused persons came to the cowshed of the informant and killed the father of the informant, who was



sleeping there, by smothering him with a pillow.

4. The learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. Prior to the institution of the present case, the co-accused Arun Singh has lodged Silao P.S. Case No. 125 of 2019 under Sections 341, 323, 307, 379 and 504 of the Indian Penal Code against the informant and his family members including deceased. The learned counsel further submits that in retaliation, this case has been lodged. The deceased Lalan Singh was a patient of heart and was undergoing treatment and he died due to heart attack. Earlier he was treated by village doctor. The post mortem was conducted and no external injury was found anywhere on the body of the deceased. The doctor further opined that the cause of death could not be ascertained and viscera was preserved and sent to the Forensic Science Laboratory. Even the report of the Forensic Science Laboratory has been received and no poisonous substance was detected in the contents of the viscera. The learned counsel further submits that police investigated the matter and after recording the statements of several witnesses submitted closure report against all the FIR named accused persons mentioning it to be a mistake of fact, but the learned Magistrate, differed from the police



report and relying upon the statement of family members of the informant, who are all accused in the case lodged by co-accused Arun Singh, took cognizance against four accused persons including the petitioner and let off two accused persons, namely, Arun Singh and Fantush Singh, as both were hospitalized for treatment. The petitioner was not even present at the spot as he was undergoing training at his institution.

5. Learned APP opposes the prayer for anticipatory bail made on behalf of the petitioner submitting that there is specific allegation against the petitioner and other FIR named accused persons that they were present at the place of occurrence during the relevant time.

6. Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the case and counter case between the parties and further considering the strong possibility of false implication, let the petitioner, above named, in the event of his arrest or surrender before the court concerned within a period of eight weeks from today, be released on bail, on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Nalanda at Biharsharif, in connection with Silao P.S. Case No.



126 of 2019, subject to the conditions mentioned in Section 438(2) of the Cr.P.C. and the following conditions:

(i) One of the bailors will be a close relative of the petitioner.

(ii) The petitioner will remain present on each and every date fixed by the court below, if so required by the learned trial court.

(Arun Kumar Jha, J)

V.K.Pandey/-

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