

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52063 of 2022

Arising Out of PS. Case No.-9 Year-2021 Thana- PATAHI District- East Champaran

NIRAJ SINGH @ NIRAJ KUMAR S/o Mundrika Singh R/o village- Jihuli,
P.S.- Patahi, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Mrigank Mauli, Sr. Advocate Mr. Prince Kumar Mishra, Advocate
For the Opposite Party/s :	Mr. Anil Kumar Singh No.1, A.P.P.
For the Informant :	Mr. Vindhyachal Singh, Sr. Advocate Mr. Vipin Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 27-02-2023 Heard Mr. Mrigank Mauli, learned senior counsel for the petitioner assisted by Mr. Prince Kumar Mishra, Advocate, Mr. Vindhyachal Singh, learned senior counsel appearing for the informant assisted by Mr. Vipin Kumar Singh, Advocate and learned Additional Public Prosecutor for the State.

Let the defects, as pointed out by the office, be removed within a period of four weeks from today.

Petitioner seeks bail in a case registered for the offences punishable under Sections 302/34 of the Indian Penal Code.

According to prosecution case, the uncle of the informant was being beaten by Rajan Singh, Rajan Singh and



Niraj Singh by means of Dabia and one Subodh Singh has assaulted the deceased by spade (Kudal) due to which the deceased sustained grievous injury and succumbed after the injury.

Earlier the petitioner was granted privilege of anticipatory bail vide order dated 10.02.2022 passed in Cr. Misc. No. 44975 of 2021. Being aggrieved and facts of the order of this Hon'ble Court the informant of the case, challenged the same before Hon'ble Supreme Court and Hon'ble Supreme Court has pleased to cancel the anticipatory bail of the petitioner vide order dated 5.07.2022 with the following directions:-

“It also appears that respondent no. 1 and the informant/complainant have made complaints to the senior officer in the Police hierarchy with regard to the investigation. Respondent no. 1 has relied upon the call transcriptions and the call record details including the tower details, which aspect has been controverted by the learned counsel appearing for the appellant and the state. It is stated that inquiries have been made by the investigating officer in this regard pursuant to the directions issued by the Superintendent of Police. These aspects may be examined by the trial court, and could be examined when



respondent No.1 applies for regular bail”.

Learned senior counsel for the petitioner submits that petitioner is innocent and he has falsely been implicated in the present case. He further submits that it appears from the F.I.R. that the date of occurrence as alleged in the F.I.R. is 08.01.2021 but the present F.I.R. instituted on 09.01.2021 at 8:10 A.M. and the postmortem was conducted at 10:45 A.M. He further submits that the petitioner was not present at the spot and the informant also did not know about the death of the deceased. On the date of the occurrence, the petitioner and informant had talked twice, and therefore, the petitioner was informed that the deceased was killed. Pursuant to the aforesaid information the petitioner being a generalist has published as news report on the media. He further submits that on the date of occurrence i.e. 08.01.2021, petitioner spoke to informant on his mobile phone No.9525972949 at least four times on 7:34 PM, 7:37 P.M., 7:50 P.M. and 7:59 P.M. and same can be confirmed with CDR and it would be evident from the transcript of the call records between the petitioner and informant, the informant himself was not aware about death of his uncle, when the petitioner spoke to him.

Learned senior counsel further submits that the present



case was carried out by the Deputy Inspector General of Police, Bettiah and during investigation it has come into light that at the time of occurrence there was darkness at the place of occurrence and it was not possible for the informant to identify the petitioner and others with their weapons. In the review report, the Deputy Inspector General of Police, Bettiah, has doubted the claim as eye witness of the informant having seen the occurrence. He further submits that the petitioner also obtained information from India Meteorological Department, Positional Astronomy Centre, Government of India, under Right to Information Act that on 08.01.2021 sunset has happened around 05:13 PM at the place of occurrence. He further submits that in the aforesaid background it is crystal clear that the petitioner has falsely been implicated in the present case due to ulterior motive and petitioner has no concern at all in the present occurrence and the present F.I.R. has been instituted after thought. He further submits that the police after investigation submitted the charge sheet against the petitioner and the petitioner is in custody since 22.07.2022.

Mr. Vindhyachal Singh, learned senior counsel appearing for the informant and learned Additional Public Prosecutor for the State have vehemently opposed the prayer for



bail of the petitioner and submits that earlier the anticipatory bail of the petitioner was cancelled by the Apex Court and it has come during investigation that petitioner was involved in the present occurrence and postmortem report also corroborate the allegation as alleged in the F.I.R. He further submits that though according to paragraph no.3 of the bail petition petitioner carries one criminal antecedent but he has been acquitted from all charges from the court below.

Considering the aforesaid facts and circumstances, the charge sheetn has been submitted against the petitioner and Deputy Inspector General of Police, Bettiah has doubted the claim as eye witness of the informant having seen the occurrence, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Court below where the case is pending in connection with Patahi P.S. Case No. 09 of 2021, subject to the following conditions:-

1. Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two



consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

2. If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

3. And further condition that 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 step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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