

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59284 of 2023

Arising Out of PS. Case No.-263 Year-2022 Thana- BAJPATTI District- Sitamarhi

Nitish Kumar, aged about 20 years, Male Son of Siyaram Bhagat, Resident of Village- Ratanpur, P.S- Bajpatti, District- Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Surendra Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 11-10-2023 Heard Mr. Uday Kumar, learned counsel appearing on behalf of the petitioner and learned Additional Public Prosecutor for the State.

2. The petitioner apprehends his arrest in connection with Bajpatti P.S. Case No. 263 of 2022, registered for the offence punishable under Sections 302/34 of the Indian Penal Code.

3. Allegedly the deceased son of the informant had love affair with the daughter of Kamlesh Ram for the last one year and the family members of the girl in order to get rid of from the deceased son, called him on the assurance of the marriage and, thereafter, they brutally assaulted him, who later on scummed to the injuries during the course of treatment.

4. It is submitted on behalf of the petitioner that from



the FIR it is evident that the occurrence took place on 10.07.2022, when the son of the deceased was called upon and assaulted. Thereafter, he died in course of treatment on 27.08.2022, but this FIR has been instituted on 29.08.2022. He further submits that while the son of the informant was alive, no such FIR has been instituted but only after his death the present FIR has been instituted. Furthermore, the petitioner is not named in the FIR and during the course of investigation the name of the petitioner has surfaced on suspicion. He next submits that there is a delay of more than 48-49 days in lodging of the FIR and no plausible explanation has been given. Further, one of the co-accused having identical allegations namely Sujit Kumar, whose name has also transpired on suspicion has been allowed anticipatory bail by the learned co-ordinate Bench of this Court in Cr. Misc. No. 38829 of 2023 vide order dated 11.09.2023. A copy of which has been placed before this Court and the same has taken up on record. He lastly submits that the petitioner is involved in two other criminal cases under the Excise Act. However, in both the cases the petitioner is on bail. The petitioner undertakes that he will fully cooperate in the investigation or in the proceeding of the Court.

5. On the other hand, learned counsel for the State



opposes the bail application.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that the petitioner is not named in the FIR and there is long delay in lodging of the FIR, coupled with the fact that co-accused persons having identical allegation has been allowed the privilege of anticipatory bail, let the petitioner abovenamed be released on bail, in the event of his arrest or surrender before the Court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned S.D.J.M., Pupri at Sitamarhi in connection with Bajpatti P.S. Case No. 263 of 2022, subject to the conditions laid down in Section 438 (2) Cr.P.C. with the further condition that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J)

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