

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55527 of 2022

Arising Out of PS. Case No.-106 Year-2022 Thana- RIVILGANJ District- Saran

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Shailesh Rai @ Shailendra Rai Son of Sudharshan Rai Resident of village -
Samsuddinpur, P.S.- Rivilganj, District - Saran at Chapra.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Radha Mohan Singh, Advocate.

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

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 16-02-2023 Learned counsel for the petitioner is permitted to

remove the defect(s), as pointed out by the office, within a

period of four weeks from today.

Heard Mr. Radha Mohan Singh, learned counsel for
the petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in
connection with Rivilganj P.S. Case No. 106 of 2022, registered
for the offences punishable under Sections 302/34 of the Indian
Penal Code.

The prosecution case is based on a written report
alleging therein that on 03.04.2022 at about 08 O'clock in the
night all the FIR named accused persons including the petitioner
along with three unknown persons came to the informant's
house and on the pretext of getting loaded stone chips took



informant's nephew. However, when he did not return, search was made and it was found that dead body of the informant's nephew hanging on a tree near water tank. It is asserted that all the accused persons committed the murder of the nephew of the informant by pressing his neck and hanged the dead body on the tree.

Learned counsel appearing on behalf of the petitioner submits that admittedly the informant is not an eyewitness to the alleged occurrence and only because of the fact that sometimes the deceased had been doing work of loading stone chips along with all the accused persons, their names have been implicated in this case. He further submits that the postmortem of the deceased was also conducted, however, there was no sign of any external or internal injury and the cause of death is opined as asphyxia due to hanging. He next submits that after completion of the investigation and after having found no material, the police submitted final form showing the petitioner and other as innocent, however differing with the final form, the learned lower court has taken cognizance for the offence under Section 302/34 of the Indian Penal Code. He lastly submits that the petitioner having fair antecedent, is in custody since 05.05.2022.

On the other hand learned APP for the State



vehemently opposes the bail application and submits that the learned lower court has taken cognizance after perusing the materials which has brought during the course of investigation.

Regard being had to the submissions made on behalf of the parties and considering the fact that the police after investigation has not found case true and accordingly submitted final form, showing no complicity of the petitioner, however differing with the final form cognizance has been taken, couple with the fair antecedent and period of custody, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate-1st Class, Saran at Chapra in connection with Rivilganj P.S. Case No. 106 of 2022, 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.

(Harish Kumar, J)

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