

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57998 of 2023

Arising Out of PS. Case No.-45 Year-2022 Thana- LAUKARIA District- West Champaran

Sudhir Mishra Son Of Late Narayan Mishra Resident of Village – Nepali tola,
Ramnagar, Post Office + Police Station - Ramnagar, District - West
Champaran

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Baxi S.R.P.Sinha, Sr. Advocate
Mr. Vijay Kr Singh No. 1, Advocate
For the Opposite Party/s : Mr. Vinod Shanker Modi, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 10-11-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. In the present case, the petitioner seeks bail in connection with Laukariya P.S. Case No. 45 of 2022, registered on 22.04.2022 for the alleged offence under Sections 302/34 of the Indian Penal Code.

3. As per prosecution case, a dead body was recovered in beheaded condition. The name of the petitioner transpired during investigation as one of the accused persons.

4. Learned senior counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. There is no eye witness to the occurrence and the FIR was lodged against unknown and informant of this case is



Mahal Chaukidar. The name of the petitioner surfaced in this case on the confessional statement of co-accused Munna Kumar who was apprehended earlier as the victim was seen going with him on the motorcycle. The co-accused Munna Kumar disclosed the complicity of this petitioner stating that the petitioner was in love with the sister of the victim which was protested by the deceased and on this count the petitioner has been arrayed as accused in this case. Learned senior counsel further submits that whatever recovery has been made it is at the instance of co-accused Munna Kumar. Moreover, though the recovered article is stated to be blood stained shirt of the petitioner but it was not put to Test Identification Parade. Learned senior counsel further submits that no incriminating article has been recovered from the person or possession of the petitioner and even the murder weapon has been recovered at the instance of co-accused Munna Kumar. The said Munna Kumar has been granted bail by a Coordinate Bench of this Court vide order dated 04.04.2023 passed in Cr. Misc. No. 56854 of 2022. Learned senior counsel further submits that the entire facts of the case goes on to show that the petitioner has been falsely implicated in this case with ulterior motive of the co-accused. The petitioner has got no criminal antecedent. The petitioner is in custody since 06.07.2023 and



charge sheet has been submitted.

5. Learned APP vehemently opposes the submission made on behalf of the petitioner. Learned APP submits that the co-accused named this petitioner as the person who slitted the head of the deceased and police got recovered blood stained shirt of the petitioner and murder weapon at the instance of co-accused Munna Kumar and this fact has been mentioned in paragraph 68 and 69 of the case diary.

6. Having regard to the facts and circumstances of the case and submissions made on behalf of the parties and considering the fact that no recovery has been shown from the petitioner or at his instance and also considering the grant of bail to the co-accused at whose instance recovery has been shown, the petitioner above named, is directed to be released on bail on furnishing bail bonds of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate 2nd, Bagaha, West Champaran /concerned court in connection with Laukariya P.S. Case No. 45 of 2022, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also 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.

(iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bonds of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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