

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70815 of 2021**

Arising Out of PS. Case No.-170 Year-2020 Thana- BASANTPUR District- Siwan

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AMAR KISHORE SINGH @ BHOLA SINGH S/o- Bhagwan Singh R/o-
Village - Narharpur, P.S. - Basantpur, District - Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

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

For the Opposite Party/s : Mr.Rajendra Prasad Nat, APP

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**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER**

4 09-01-2023 Heard the learned counsel for the

petitioner and the learned A.P.P. for the State.

The petitioner seeks regular bail in
connection with Basantpur (Lakri Nabiganj O.P.) P.S.
Case No. 170 of 2020 for the offence registered
under Sections 323, 379, 302, 506 and 34 of the
Indian Penal Code.

The Superintendent of Police, Siwan is
present in the Court and has handed over a photo
copy of the report of the Forensic Science
Laboratory, Bihar dated 05.01.2023, which is taken
on record. It is submitted by the learned
Superintendent of Police, Siwan that he has issued



a show cause notice to the S.H.O./I.O. concerned for disobeying the order of this court and not being prompt in producing the F.S.L. report, as directed by this Court as far back as on 18.10.2022 and the defaulting /erring police personnel shall also be suspended, forthwith.

In such view of the matter, the personal appearance of the Superintendent of Police, Siwan is dispensed with.

The case of the prosecution, in brief, according to the informant, namely, Phulan Singh is that his son namely Brajesh Singh had left his house in the night of 24.04.2020 without informing the family members and on 25.04.2020, in the morning at about 5:30 A.M., the informant received phone call on his mobile that his son is lying near the house of Mishri Lal at Narharpur in a critical (half dead) condition, whereafter, the informant along with his family members had gone to the said place of occurrence and had found that his son was lying in a severely injured condition, whereafter they had taken the deceased to



Naviganj Government Hospital, whereafter he was referred for better treatment to Gorakhpur. It is further alleged that immediately the informant had put his son in an ambulance and had proceeded to Gorakhpur and on the way his son told him that Savita Kumari and Nigam Kumari had rang him on his mobile phone and had called him at the place of occurrence where the accused persons including the petitioner herein had assaulted him and had snatched his mobile phone. It is the further case of the prosecution that after reaching Gorakhpur, medical treatment was given to the son of the informant, however, he died after five hours.

The learned counsel for the petitioner has submitted that the petitioner is innocent, he has been falsely implicated in the present case and he is languishing in custody since 18.06.2021. The learned counsel for the petitioner has further submitted that there is no eye witness to the alleged occurrence and the petitioner has been roped in the present case merely on suspicion. It is also submitted that a general and omnibus



allegation has been levelled against all the accused persons and the postmortem report does not mention any cause of death, hence benefit of doubt can be granted to the petitioner herein for the purposes of grant of bail.

Per contra, the learned A.P.P. for the State has vehemently opposed the prayer for bail and has submitted, by referring to the postmortem report, that several external injuries have been found on the person of the deceased and the cause of death was kept reserved till report of viscera is received from the Forensic Science Laboratory and now the report of the F.S.L. has been received, which indicates that no Metallic, Alkaloidal, Glycosidal, Pesticidal and Volatile poison, has been detected in the contents sent for examination, thus it is apparent that the deceased died on account of injuries sustained by him after he was assaulted by the petitioner and others.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the



petitioner and taking into account the materials available on record as also considering the materials available in the case diary, this Court finds that not only ample evidence has been collected during the course of investigation to prima facie show the complicity of the petitioner in the alleged crime, but this Court also finds that the deceased had disclosed the factum of the petitioner and others having severely assaulted him, to the informant, in presence of one Ketan Singh as also in presence of the elder brother of the informant namely Gauri Shankar Singh, while the deceased was being taken in a critical condition to Gorakhpur, for better treatment in an ambulance, hence I am not inclined to grant bail to the petitioner, thus the present petition stands dismissed.

(Mohit Kumar Shah, J)

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