

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67538 of 2023

Arising Out of PS. Case No.-73 Year-2023 Thana- BATHNAHA District- Sitamarhi

LAKHINDRA YADAV @ LAKHINDRA RAY Son of Shivjee Ray Resident
of village - Mohanpur, P.S.- Sitamarhi, District - Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Jha, Adv.

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

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 01-11-2023 Heard Mr. Ashok Kumar Jha, learned counsel

appearing on behalf of the petitioner and Mr. Rajendra Prasad
Nat, learned Additional Public Prosecutor for the State. The
informant is represented by Mr. Santosh Kumar, learned
counsel.

2. The petitioner apprehends his arrest in connection
with Bathnaha P.S. Case No. 73 of 2023, registered for the
offences punishable under Sections 302, 201/34 of the Indian
Penal Code.

3. It is alleged that the son of the informant was called
by co-accused Sikandar Prasad Yadav and Lakhindra Yadav (the
petitioner herein), however, he did not return in the night. It is
further alleged that the dead body of the son of the informant
was recovered on the next day on the disclosure made by co-



accused Sikandar Prasad Yadav, who also disclosed before the police that the petitioner was also involved in the killing of the son of the informant.

4. It is submitted on behalf of the petitioner that admittedly the dead body of the son of the informant was recovered on 23.02.2023 at about 9:00 a.m. and soon thereafter the inquest report has been prepared and the postmortem conducted but surprisingly the present FIR has been instituted on 24.02.2023 and as such the deliberation and false implication of the petitioner cannot be ruled out, apart from the fact that the disclosure/confession made before the police is not admissible and hit by Sections 25 and 26 of the Indian Evidence Act, 1872. He also submits that during the course of investigation, there is no other cogent material showing the complicity of the petitioner and in fact the entire case is based on circumstantial evidence though it did not complete the chain of evidence.

5. On the other hand, learned counsel for the State and the informant oppose the bail application and submit that the son of the informant was killed by co-accused Sikandar Prasad Yadav with the help of the petitioner and he has admitted the complicity of the petitioner in the present crime.

6. Considering the submissions made on behalf of the



parties and taking note of the nature of accusation and the fact that on the disclosure made by co-accused Sikandar Prasad Yadav, the dead body has been recovered and he is the person who disclosed the name of the petitioner, this Court is not persuaded to enlarge the petitioner on anticipatory bail and thus, the prayer of the petitioner stands rejected.

7. However, if the petitioner surrenders before the Court below and prays for regular bail, the same shall be considered by the Court below without being prejudiced by the present order.

(Harish Kumar, J)

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