

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22295 of 2024

Arising Out of PS. Case No.-663 Year-2022 Thana- GHORASAHAN District- East
Champaran

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Dinesh Prasad @ Dinesh Kumar Yadav S/o Late Kailash Rai R/o vill - Dhum
Nagar, P.S. - Ghorasahan, Distt - East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shyameshwar Kumar Singh, Adv.
For the Opposite Party/s : Mr. Arvind Kumar Pandey (App.84), APP.

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 2 22-04-2024 1. Heard learned counsel for the petitioner and learned
A.P.P. for the State along with learned senior counsel for the
informant.
2. The petitioner apprehends his arrest in a case
registered for the offences punishable under Section 302/34 of
the Indian Penal Code.
3. Learned counsel for the petitioner submits that the
easiest way to deal with this anticipatory bail application is to
reject it, at the outset, in the nature of allegation as alleged in the
FIR, but then, that would amount to travesty of justice. It is next
submitted that from perusal of the allegations as alleged in the
FIR when compared with the postmortem report it would amply
manifest that informant is not an eye-witness to the occurrence



and has implicated 13 persons with an allegation that they were instrumental in killing his son. It is further submitted that informant in the FIR alleges that his younger son, Sunny Kumar after having his dinner was going to sleep in the cow-shed when her mother asked the informant to go and give him kheer on which, the informant along with the kheer was going towards the cow-shed when he saw the named accused persons including the petitioner standing near the house of Kalawati Devi, thereafter alleges that the accused persons started assaulting his son and dragged him towards the house of Kalawati Devi on which, he raised alarm, further he also saw Kalawati and Suraj strangulating the deceased and thereafter again the accused persons started assaulting and thereafter it is alleged that the accused persons took his son and hanged his dead body from a tree.

4. Learned counsel for the petitioner further submits that the date of occurrence is 06.12.2022 at about 8:00 pm in the night when from perusal of the FIR it would manifest that the police station was informed about the occurrence on 07.12.2022 at 6:00 pm, thereafter the FIR came to be instituted and the police went to the place of occurrence and recovered the hanging dead body. It is next submitted that if the informant was



an eye-witness to the occurrence then whey he did not inform the police immediately. It is also submitted that it absolutely does not stand to reason that if such an occurrence was being committed by the accused persons in such large number and the informant was raising alarm why no villagers came at the place of occurrence. It is further submitted that from perusal of the postmortem report it would manifest that the doctor has recorded the cause of death to be injury caused by hard and blunt substance as such the allegation that Kalawati Devi along with Suraj strangled her son does not get corroborated. It is further submitted that informant is not an eye-witness to the occurrence but then by way of afterthought instituted the instant case implicating the accused persons including the petitioner who is a person with clean antecedent and is a Teacher. Learned counsel for the petitioner further submits that the falsity of allegation would also manifest on the fact that police after threadbare investigation, came to a considered conclusion that petitioner is innocent and thus submitted final form exonerating him of the allegations and submitted charge-sheet against other accused persons u/s 306 of the I.P.C. but then, the learned trial court differing with the police report took cognizance of the offence u/s 302 of the I.P.C. based on postmortem report. It is



further submitted that whether it would be prudent for the Court to send the petitioner to jail when the police after investigation submitted final form exonerating the petitioner of the allegations and based on the same investigation cognizance came to be taken differing with the police report.

5. Learned A.P.P. for the State along with learned senior counsel for the informant opposes the anticipatory bail application but then are not in a position to rebut the submission of the learned counsel for the petitioner that final form was submitted exonerating the petitioner from the allegations, further, the postmortem report does not corroborate the allegation of strangulation and if the informant was an eye-witness to the occurrence as alleged then nothing prevented him from approaching the police immediately, which amply demonstrates the informant was not an eye-witness of the occurrence.

6. Considering the submissions made by the learned counsel for the petitioner, the petitioner above-named in the event of his arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 5,000/- (Rupees Five Thousand) with two sureties of the like amount each to the



satisfaction of the learned trial court where the case is pending/successor court in connection with Ghorasahan P.S. Case No. 663 of 2022 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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