

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28322 of 2024

Arising Out of PS. Case No.-1372 Year-2023 Thana- NAWADA District- Nawada

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Ismail Mian @ Md. Nawab son of Khaleel Khan Resident of Village-
Bardiha, Police Station- Pakribarawan, dist.- Nawada

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

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

For the Opposite Party/s : Mr. Chandra Bhushan Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 20-09-2024 Heard learned counsel for the petitioner as well as
learned APP for the State.

2. The petitioner seeks bail in a case registered for the
offences punishable under Section 365 of the IPC in connection
with Nawada Town P.S. Case No.1372 of 2023.

3. The learned counsel for the petitioner submits that
the petitioner has antecedent of four cases and is in custody
since 12.01.2024 and the informant alleges that his father was
getting ready to go to Ajmer Sharif on 22.07.2023 at 09:00 AM,
when Akhilesh who was acquainted with his father from before
as his father used to sale his land through Akhilesh, came to his
house and told his father that he will drop him to the railway
station, accordingly, his father accompanied him, it is next
alleged that after sometime his sister called Akhilesh on his
mobile number 8409696470 and asked him about her father,



when Akhilesh disclosed that her father has boarded Mahabodhi Express on a general ticket, further when again call was made on number of Akhilesh his phone was switched off, it is further alleged that his father does not have a phone, hence he was carrying the mobile number of the house, so that after reaching Ajmer he can inform the family members of his arrival at Ajmer, but when his call did not come, hence again a call was made on mobile of Akhilesh, but it was switched off, hence the informant took other number of Akhilesh (8084093904) from his mother and called him on which he disclosed that his father would return to Nawada in time, but his father did not return, nor Akhilesh gave any satisfactory explanation, thus alleges that Akhilesh in conspiracy with unknown accused abducted his father with a view to usurp his land and also feared that his father might have been killed.

4. The learned counsel for the petitioner submits that petitioner is not named in the FIR and his named transpired during the course of investigation in the confessional statement of Akhilesh in police custody. It is further submitted that confessional statement in police custody does not have any evidentiary value. It is also submitted that during the course of investigation, it transpired that the father of the informant left



for Ajmer Sharif on 22.07.2023 and a dead body of a male was recovered from the railway track near Jamuawan Railway Station for which U.D. Case No.10 of 2023 dated 23.07.2023 was registered at Wazirganj P.S. It is submitted that the dead body so recovered from the railway track was that of the father of the petitioner for which the aforesaid U.D. case was instituted on 23.07.2023. It is submitted that the dead body of the father was recovered soon after he had boarded the train i.e. Mahabodhi Express as alleged in the FIR. It is also submitted that the body was sent for postmortem to A.N.M.C.H., Gaya.

5. It is also submitted that when the UD case was instituted in column-3 it was recorded that the death was caused due to train accident. It is further submitted that even the postmortem report records that the death has been caused by hard and blunt object due to RTA i.e. Road Transport /Traffic Accident. The learned counsel for the petitioner further submits that the dead body of the father of the informant was recovered on 23.07.2023 itself, but then the instant FIR came to be instituted on 28.08.2023 i.e. after a delay of more than one month. It is also submitted that it does not appear probable that the petitioner was not aware that his father has died for which a U.D. case has been instituted. It is also submitted that it



absolutely does not stand to reason that as to why the petitioner did not approach the concerned police station within a reasonable time, when his father did not come back from Ajmer Sharif, which amply demonstrates that the petitioner was aware that his father had died on account of train accident, as the body after the postmortem must have been handed over to the family members.

6. The learned counsel for the petitioner next submits that Akhilesh Yadav has also approached this Court seeking regular bail by filing Cr. Misc. No.30871 of 2024 and the inquest report and the postmortem report are annexed in the supplementary affidavit filed in the case of Akhilesh Yadav. It is next submitted that charges have been framed, as such no useful purpose would be served by keeping the petitioner in jail.

7. The learned APP, Mr. Chandra Bhushan Prasad for the State opposes the bail application and submits that since charges have been framed and if petitioner is given the privilege of regular bail, in that event, he may abscond, on which the learned counsel appearing on behalf of the petitioner submits that petitioner will not abscond, rather will cooperate in the trial.

8. Considering the submissions made by the learned counsel for the petitioner, the petitioner above-named is directed



to be released on bail on his furnishing bail-bonds in the sum of Rs.25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Nawada in connection with Nawada Town P.S. Case No.1372 of 2023.

9. However, if the learned trial court comes to a conclusion that petitioner after being released on bail is trying to delay the trial in any manner, the trial court would be at liberty to cancel the bail bonds of the petitioner.

10. The application stands allowed.

(Satyavrat Verma, J)

Prakash Narayan

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