

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33418 of 2024

Arising Out of PS. Case No.-753 Year-2023 Thana- MOTIHARI MUFASIL District- East
Champaran

Abhishek Kumar Son of Raj Kishor Prasad Resident of Village - Sirsa Khop,
P.S.- Motihari Muffasil, District - East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Anil Kumar, Advocate
For the Opposite Party/s	:	Mr. Jharkhandi Upadhyay, APP
For the Informant	:	Mr. Shashank Shekhar, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 31-07-2024 Heard Mr. Anil Kumar, learned Advocate for the
petitioner, Mr. Shashank Shekhar, learned Advocate for the
informant and the learned APP for the State.

2. The petitioner seeks regular bail, who is in custody
in connection with Muffasil Motihari P.S. Case No. 753 of 2023,
registered for the offence punishable under Section 302/34 of
the Indian Penal Code.

3. Based upon the written report, the prosecution
alleges that while the father of the informant was returning from
market, in the meantime, all the FIR named accused persons,
including the petitioner and two unknown persons surrounded
him. It is further alleged that co-accused *Raj Kishore Prasad*
fired upon his father, however, the same did not hit him. On
account of fear, the father of the informant went to the house of



Jaimangal Prasad, thereafter all the miscreants caught hold to the father of the informant and the petitioner gave repeated knife blow, causing death of the father of the informant.

4. Learned Advocate for the petitioner referring to the FIR contended that the narrations made in the FIR clearly suggest that the informant is not an eyewitness to the alleged occurrence and only because of a long enmity between the parties, the name of all the persons, including the petitioner; and even the female members of the family have been given. It is also contended that surprisingly two bullet have been fired upon the father of the informant, but none hit to him. It is also contended that the occurrence has taken place within the premises of a hut and, as such, it is not reliable that the witnesses, who supported the prosecution had seen the occurrence. Drawing the attention of this Court to the inquest report, learned Advocate for the petitioner further submitted that the deceased was found wearing an under-paint and a shirt. Therefore, it is hardly to be believed that a person who had been coming from a market was only in under-paint. It is also submitted that a knife was produced by the informant, but surprisingly it does not contain any blood, which also makes the entire case suspicious. Moreover, the petitioner is in custody since 22.11.2023, having



no criminal antecedent.

5. On the other hand, learned APP for the State as well as the informant vehemently opposes the bail application and referring to the post-mortem report categorically submitted that the deceased has sustained nine incise/stab injury over his body. The allegation of giving repeated blow of knife is alleged against the petitioner. It is next contended that the FIR clearly narrates that the occurrence has taken place near the house of one *Jaimangal Prasad*, and the statement of *Jaimangal Prasad* was recorded by the police who supported the prosecution case.

6. Regard being had to the submissions made on behalf of the parties and considering the specific nature of accusation corroborated with the post-mortem report as well as the statement of the witnesses recorded during the course of investigation, this Court is not persuaded to enlarge the petitioner on bail.

7. Accordingly, the prayer for bail of the petitioner stands rejected.

(Harish Kumar, J)

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