

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34841 of 2024

Arising Out of PS. Case No.-45 Year-2024 Thana- HARSIDHI District- East Champaran

Idu @ Saif @ Saif Ali Son of Nurullah Ansari Resident of Village - Jhandwa,
P.S.- Harsidhi, District - East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Abhishek Kumar
For the Opposite Party/s :	Mr. Khurshid Anwar
	Mr. Rajesh Kumar

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 420-09-2024
1. Heard learned counsel for the petitioner, the learned counsel appearing on behalf of the informant and learned APP for the State.

2. The petitioner seeks bail in a case registered for the offences punishable under Sections 302, 201 and 120B of the Indian Penal Code.

3. The learned counsel for the petitioner submits that the petitioner is a person with clean antecedent and has surrendered on 03.02.2024 before the learned trial Court. It is further submitted that from perusal of the allegation as alleged in the FIR, it would manifest that the informant alleges that on 28.01.2024 at about 5.00 P.M., the petitioner along with Nagendra Manjhi and two unknown persons came and took her



son (Sameer Alam) with them, thereafter, the son of the informant did not return back till night. Thereafter, the informant and his family members started searching and during course of search, they found the dead body of Sameer Alam near Jharwa Dariyapur in a bush, thus alleges that her son was killed by the petitioner along with other accused persons.

4. The learned counsel for the petitioner submits that the FIR does not disclose as to when the dead body of the deceased was found. It is also submitted that though the dead body was recovered on 29.01.2024, but then, the FIR was not instituted rather the FIR came to be instituted on 30.01.2024.

5. At this stage, the learned counsel appearing on behalf of the informant submits that the FIR was instituted on 30.01.2024 for the reason that the informant and her family members were busy in cremation of the deceased on 29.01.2024, on which the learned counsel appearing on behalf of the petitioner submits that this amply demonstrates that the FIR was instituted after the dead body of the deceased was cremated in accordance with Muslim Rituals.

6. The learned counsel for the petitioner next submits that since petitioner along with Nagendra Manjhi are alleged to have taken the deceased along with them on 28.01.2024 at 5.00



P.M., as such, they came to be implicated in the case. It is also submitted that after the petitioner surrendered, he was taken on police remand and his confession was obtained wherein the petitioner confessed his crime and stated that deceased was having dispute with one Bhanu and on orders of Bhanu, the petitioner along with others had called the deceased on 28.01.2024 and had taken him to Pokhra village where Bhanu was called and Bhanu stabbed him to death. It is further submitted that even the post mortem records that the death was caused on account of assault made by sharp edged weapon. It is submitted that the confession of the petitioner was obtained in a manner to connect him with the offence and the post mortem report. It is also submitted that confession before the police does not have any evidentiary value. It is next submitted at the cost of repetition that petitioner is a person with clean antecedent and he surrendered i.e. petitioner was not arrested and his confession was obtained in such a manner to connect him with the offence.

7. The learned counsel next submits that Bhanu had approached this Court seeking regular bail, but then, his regular bail application was rejected by an order dated 18.09.2024 in Cr. Misc. No.38099 of 2024. It is submitted that perhaps the correct facts were not brought to the notice of the learned Coordinate



Bench. It is also submitted that petitioner will not abscond rather will cooperate in the trial to prove his innocence. The case has been listed before this Court as a tied up matter for the reason that earlier this Court had granted the privilege of anticipatory bail to Wazir Alam in Cr. Misc. No.36719 of 2024.

8. Learned A.P.P. as well as the learned counsel appearing on behalf of the informant opposes the bail application, but then, are not in a position to rebut the submission of the learned counsel appearing on behalf of the petitioner that the confession of the petitioner was obtained in custody after the dead body of the deceased was recovered and post mortem was conducted.

9. 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 learned Chief Judicial Magistrate, East Champaran at Motihari in connection with Harsidhi P. S. Case No.45 of 2024, subject to condition that one of the bailor of the petitioner shall be his father namely, Nurullah Ansari.

10. The application stands allowed.



11. However, in the event, if the learned trial Court comes to a conclusion that the petitioner after his release is trying to delay the trial in any manner, the learned trial Court shall be at liberty to cancel the bail bonds of the petitioner after recording reasons.

(Satyavrat Verma, J)

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