

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58792 of 2024

Arising Out of PS. Case No.-323 Year-2023 Thana- SITAMARHI District- Sitamarhi

Nishant Singh @ Nishit Singh @ Nischit Singh @ Nishant Kumar Singh Son
of Narendra Singh @ Nagendra Singh @ Narendra Kumar Singh R/O- Ward
No.1, Riga Road, P.S.- Sitamarhi, Distt.- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Shashank Chandra, Adv.
For the Opposite Party/s	:	Mr. Surendra Kumar, APP
For the Informant	:	Mr. Asshar Mustafa, Adv.

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

4 27-09-2024 Learned counsel for the petitioner has filed
supplementary affidavit in the Court.

2. Let it be kept on record.

3. Heard learned counsel for the petitioner, learned
counsel for the informant and learned Additional Public
Prosecutor for the State.

4. The petitioner apprehends arrest in connection with
Sitamarhi PS Case No.323 of 2023 dated 19-04-2023, instituted
under Sections 302 and 34 of the IPC.

5. The prosecution case, in short, is that the FIR
named accused persons including the petitioner and three-four
unidentified persons had taken away Raja Kumar (deceased),
who is friend of the son of the informant, from the house of
informant to the house of this petitioner. It is further alleged that
they have brutally assaulted the deceased at the door of the



petitioner causing serious injuries to him. Thereafter, the informant along with her son Mintu went to the house of the petitioner and found Raja Kumar lying unconscious. Thereafter, the informant with assistance of her son took him to the hospital where the doctor declared him as dead.

6. The learned counsel for the petitioner submits that there is no specific allegation against the petitioner. It is further submitted that father, mother and sister of the deceased have sworn an affidavit before the learned court below that the petitioner has no role in killing of the deceased. Learned counsel for the petitioner submits that sister of the deceased, namely, Lalita Kumari submitted an application on 19.04.2023 before the SHO, Sitamarhi Police Station against the informant and his son, which was not accepted by the concerned SHO then on 20.04.2023 she sent the application to the Superintendent of Police on his official e-mail address on 20.04.2023 at 3:04 PM but then also SHO did not take any action on the said application. When no action was taken by the SHO, the sister of the deceased filed Complaint Case No. 406 of 2023 on 24.04.2023 against sons of the informant, nephew of the informant as well as informant and others before the learned CJM, Sitamarhi. It is next submitted that this petitioner has filed



a quashing application bearing Cr. Misc. No. 45819 of 2023 for quashing of FIR, wherein, interim protection was granted to the petitioner. Later on the said Criminal Miscellaneous has been dismissed by a co-ordinate Bench of this Court.

7. On the other hand, learned counsel for the informant and learned APP for the State have vehemently opposed the prayer for bail. It is submitted that informant is an eye-witness to the occurrence. She specifically named four persons, who had taken the deceased from her house to the house of the petitioner. It is further submitted that filing of affidavit during course of the investigation, is a glaring example of tampering with the evidence. It is submitted that after institution of the case, by dint of force, petitioner is tampering with the evidence and compelling all the members of the family to sworn an affidavit. In paragraph no. 71 of the case diary, one of the sister of the deceased, has supported the case, wherein, she has stated that deceased was living in the house of the informant and her mother was residing in Bangalore.

8. Earlier, this Court had called for the case diary, which has been received. The inquest report of the deceased is mentioned at paragraph 14 of the case diary, which reveals that the dead body was recovered from the '*Darwaza*' of the



petitioner, wherein, it is also mentioned that multiple blood clotting and blackening marks were found all over the body of the deceased which is substantiated with the postmortem report of the deceased, which is mentioned at paragraph 108 of the case diary, which corroborates that the deceased was brutally assaulted by various persons leading to his death. It is apparent from the inquest report that the sister of the deceased, namely, Lalita Kumari and bhabhi of the deceased are witness to the inquest report which was prepared at the door of the petitioner.

9. Considering the aforesaid facts of the case as well as nature of injury mentioned in the post-mortem report and the allegation against the petitioner, I am of the view that no case for grant of anticipatory bail is made out. The Prayer of the petitioner for pre-arrest bail is **rejected**.

10. However, if the petitioner surrenders before the learned court below within six weeks and prays for regular bail, the same shall be considered and disposed of on its own merit without being prejudiced by this order.

(Khatim Reza, J)

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