

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62796 of 2023

Arising Out of PS. Case No.-102 Year-2023 Thana- KASMA District- Aurangabad

Upendra Sharma @ Upendra Kumar, S/O Chandrarick Mistry @ Chandarick
Sharma R/O Villag- Budhaul, P.S- Kasma, Distt.- Aurangabad.

... .. Petitioner/S

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ashok Kumar Singh
For the Opposite Party/s : Mr.Nand Kishore Prasad

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

5 14-03-2024 1. Heard learned counsel for the petitioner and
learned APP for the State.

2. The petitioner seeks bail in anticipation of his
arrest in a case registered for the offences punishable under
Section 328 of the Indian Penal Code.

3. The learned counsel for the petitioner submits
that the petitioner is a person with clean antecedent and
from bare perusal of the allegation as alleged in the F.I.R., it
would manifest that the petitioner has been implicated by
the informant based on suspicion. It is further submitted that
in the nature of allegation as alleged in the F.I.R., it would
manifest that there was absolutely no reason for the



informant to suspect that petitioner was involved in the occurrence. It is next submitted that informant alleges that the petitioner on 26.06.2023 came to his house and asked his brother (deceased) to accompany him for getting the land registered and thereafter, his brother accompanied him to Aurangabad, from where at 9.00 P.M. in the night, the petitioner called the *Sarpanch* and informed him that brother of the informant was not well and was in his house. Thereafter, on information being conveyed to the informant by the *Sarpanch*, the informant along with his family members went to the house of the petitioner and saw that his brother was lying in an unconscious condition on the Verandah of the petitioner. Accordingly, the informant took his brother to the hospital, but on the way he died. It is further alleged that post mortem of the body was conducted and thereafter, the body was cremated and then the present F.I.R. came to be instituted based on suspicion that petitioner might have poisoned the deceased.

4. The learned counsel for the petitioner submits that in the nature of allegation as alleged in the F.I.R., it



would manifest that the entire allegation hinges around suspicion and the informant is not an eye witness. It is also submitted that had the petitioner been involved in the occurrence in any manner, then he would not have informed the *Sarpanch* for conveying to the family members of the deceased that he was not well and was in his house. It is also submitted that a person, who commits an occurrence, makes effort to conceal the evidence, but in the present case, no attempt was made by the petitioner to conceal any act of his rather it was he who had informed the family members of the deceased to come to his house. It is also submitted that had any poison been found in the body during the course of post mortem, then a police case would have been instituted at the hospital itself.

5. Learned A.P.P. opposes the bail application.

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 Court below within a period of six weeks, is directed to be released on bail on his furnishing bail-bonds in the sum



of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Aurangabad in connection with Kasma P. S. Case No.102 of 2023, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

7. The application stands allowed.

(Satyavrat Verma, J)

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