

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60733 of 2024

Arising Out of PS. Case No.-341 Year-2023 Thana- BARARI District- Katihar

Nanku Kumar @ Styam Kumar, Son of Binod Yadav, Resident of Village -
Bakkikol, P.S.- Barari, District - Katihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mukul Jee, Advocate

For the Opposite Party/s : Mr. Rajendra Nath Jha, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 26-10-2024 Heard learned Advocate appearing on behalf of the

petitioner and the learned Additional Public Prosecutor for the

State.

2. The application for grant of bail to the petitioner
who is in custody in connection with Barari P.S. Case No. 341
of 2023 registered for the offence punishable under Sections
302, 201 and 34 of the Indian Penal Code.

3. Based upon the written report the prosecution
alleges that in the evening of 17.10.2023, the brother of the
informant was taken away by three named accused persons,
including the petitioner; later on he was done to death by all of
them and dead body alongwith the motorcycle and mobile
phone were concealed in a ditch.

4. Learned Advocate appearing on behalf of the



petitioner contended that from the narrations made in the FIR it would be evident that the deceased was lastly seen with the accused persons including the petitioner and subsequent thereto, the dead body was recovered on 18.10.2023 and thereafter inquest report was prepared and the post-mortem has also been done; But at no point of time any complaint has been made, nor even suspicion has been raised, but surprisingly after the inquest and the post-mortem on 19.10.2023, the FIR has been instituted with an allegation that the deceased was taken away by all the three persons which is nothing but full of deliberation based upon suspicion. It is next contended that the petitioner bears fair antecedent and now he has been incarcerated since 20.03.2024. the investigation is complete and the chargesheet has been submitted. Drawing the attention of this Court to the materials collected during the course of investigation it is lastly contended that there is no eye witness to the alleged occurrence or even on the point of last seen.

5. On the other hand, learned Additional Public Prosecutor for the State vehemently opposes the bail application and submits that the deceased was lastly seen with the petitioner and other co-accused persons and on the next day his dead body was recovered. The complicity of the petitioner cannot be



denied.

6. Regard being had to the submissions made on behalf of the parties and considering the delay in lodging of the FIR, coupled with the fact that there is no eye witness to the alleged occurrence, and moreover there is no proximity of time of the last seen with the recovery of the dead body coupled with the investigation of the crime is complete and the chargesheet has been submitted, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate, 1st Class, Katihar in connection with Barari P.S. Case No. 341 of 2023, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates



without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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