

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.80511 of 2024

Arising Out of PS. Case No.-175 Year-2023 Thana- MAHISHI District- Saharsa

Md. Samsai @ Md. Samasai, Son of Md. Wasir Alam @ Md. Vasir, Resident
of Village- Baghwa Ward No. 8, PS- Mahishi, District- Saharsa

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Diwakar Prasad Singh, Adv.

For the Opposite Party/s : Mr. Nand Kishore Prasad, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 20-12-2024 Heard the learned Advocate for the petitioner and the
learned APP for the State.

2. The petitioner seeks regular bail, who is in custody
in connection with Sessions Trial No. 419 of 2023,
corresponding to Mahisi P.S. Case No. 175 of 2023, registered
for the offences punishable under Sections 302 and 201 of the
Indian Penal Code.

3. The FIR has been instituted against unknown
person, when the dead body of the son of the informant was
found lying in a bush, who was strangled to death.

4. Learned Advocate for the petitioner contended that
admittedly, the FIR has been instituted against unknown
miscreants, however, during the course of investigation, on the
basis of call details report, the petitioner was apprehended along



with co-accused Md. Akram by the police. During the course of investigation, confessional statements of this petitioner and co-accused Md. Akram were recorded, wherein they have confessed their involvement in causing death of the deceased. It is further contended that save and except the confessional statement, there is no material suggesting complicity of the petitioner in the crime. Co-accused Md. Akram, who is having identical allegation and his case is also based on confessional statement, has been allowed the privilege of regular bail by this Court in Cr. Misc. No. 54179 of 2024 vide order dated 25.09.2024, the copy of which has been marked as Annexure-P/3 to the bail application. Drawing the attention of this Court to the postmortem report, learned Advocate for the petitioner further contended that the entire case of the prosecution belies for the simple reason that no strangulation mark has been found over the dead body of the deceased and thus the viscera has been sent to the Forensic Science Laboratory. The petitioner bears fair antecedent and now he has been incarcerated since 03.08.2023.

5. On the other hand, learned APP for the State vehemently opposed the bail application and submitted that apart from the confessional statement of the petitioner of



causing death of the deceased, there are other materials collected during the course of investigation like CDR, which suggest the involvement of the petitioner.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that co-accused person having identical allegation, has been allowed the privilege of bail, coupled with the fact that the postmortem report does not corroborate the allegation of strangulation and the petitioner bears fair antecedent, 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 Sessions Judge – II, Saharsa in connection with Sessions Trial No. 419 of 2023, arising out of Mahisi P.S. Case No. 175 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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