

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.80805 of 2023

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

Harendra Sah @ Harendra Kumar Son Of Ram Lakhan Sah Resident Of
Village- Riga Road, Ps- Sitamarhi, Dist- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Amrendra Kumar, Adv.
For the Opposite Party/s	:	Mr.Rajendra Singh, APP
For the informant	:	Mr. Ashhar Mustafa, Adv.

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

3 05-03-2024 Heard learned counsel for the petitioner, learned
counsel for the informant and learned Additional Public
Prosecutor for the State.

2. 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.

3. 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 one of the co-accused, namely,
Nishant Singh @ Nischit Singh. It is further alleged that they
have brutally assaulted the deceased at the door of the said



Nishant Singh causing serious injuries to him. Thereafter, the informant along with her son Mintu went to the house of co-accused, Nishant Singh and found Raja Kumar lying unconscious. Thereafter, the informant with her son taken him to the hospital, where the doctor declared him as dead.

4. 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. It is next submitted that one of the co-accused, namely, Nishant Kumar Singh filed a quashing application bearing Cr. Misc. no. 45819 of 2023 for quashing of FIR wherein, interim protection has been granted to the said Nishant Kumar Singh.

5. 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 names this petitioner that he was one of the four persons who had taken the deceased from her house to the house of co-accused, namely, Nishant Singh. It is further submitted that filing of affidavit during the course of 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.

6. Earlier, this Court had called for the case diary, which has been received. The inquest report of the deceased is annexed at paragraph 14 of the case diary, which reveals that the dead body was recovered from the '*Darwaza*' of Nishant Singh, wherein, it is also mentioned that multiple blood clotting and blackening marks was found all over the body of the deceased which is substantiated with the postmortem report of the deceased, which is annexed at paragraph 108 of the case diary, which confirms that the deceased was brutally assaulted by various persons leading to his death.

7. Considering the aforesaid facts of the case as well as nature of injury and the specific allegation against the petitioner, I am of the view that no case for grant of anticipatory bail is made out. Prayer for pre-arrest bail is rejected.

8. 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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