

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3102 of 2024

Arising Out of PS. Case No.-37 Year-2021 Thana- ASHOK PAPER MILL District-
Darbhanga

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Mitthu Sahni S/O- Bhagya Narain Sahni @ Bhagy Narayan Sahni @ Bhag
Narayan Sahni @ Bhag Narayan R/O Village- Hariharpur, P.S.- Ashok Paper
Mill, Dist.- Darbhanga

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Nilendu Kumar Choudhary, Advocate

For the Opposite Party/s : Mr. Murli Dhar, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 21-06-2024 Heard Mr. Nilendu Kumar Choudhary, learned
counsel appearing on behalf of the petitioner and the learned
Additional Public Prosecutor for the State.

2. The petitioner apprehends his arrest in connection
with A.P.M. (Ashok Paper Mill) P.S. Case No. 37 of 2021,
registered for the offences punishable under Sections 328 and
302/34 of the Indian Penal Code.

3. Based upon a written report, the prosecution alleges
that on 17.02.2021, all the accused persons, including the
petitioner, took the brother of the informant for idol immersion
and when he returned back, his brother complained that accused
persons, including the petitioner, have administered some
substance in his wine due to which he was feeling uneasiness. It



is further alleged that during treatment, his brother died in DMCH.

4. Learned Counsel representing the petitioner contended that from the FIR it appears that the allegation against all the accused persons that they accompanied the brother of the informant for idol immersion. During the course of investigation, it has come that the deceased was in unconscious position and, as such, the disclosure of the name of the petitioner and others that they have administered some poisonous substance, appears to be highly doubtful, is the contention of the learned counsel for the petitioner. Drawing the attention of this Court to the relevant paragraph of the case diary, further submissions has been made that none of the witnesses have stated that they have seen the petitioner and any others were accompanying the deceased, administering the liquor or any intoxicated substance. There is no material suggesting the motive to administer the poisonous substance. It is further contended that during the course of investigation, the viscera of the deceased was sent to the FSL; the report suggests that the cause of death is consumption of *endosulfan*, which is commonly used in agriculture for killing pests and is poisonous. It is also contended that this might be a case of consumption of



illicit hooch, resulting into the death of the deceased and only on suspicion, the name of the petitioner and others have been levelled. Moreover, other accused persons, having identical allegation, have been allowed the privilege of anticipatory bail by this Court in Cr. Misc. No. 58814 of 2023, the copy of which has been placed on record.

5. On the other hand, learned counsel for the State opposed the pre-arrest bail application. It is submitted that the deceased was lastly seen with the petitioner and others. All the more, the deceased narrated the entire story of administering poisonous substance to the informant, resulting into lodging of the FIR.

6. Regard being had to the submissions made on behalf of the parties and considering the statement of the independent witnesses, who have categorically stated that the name of the petitioner has been implicated on account of some prior enmity or on suspicion. None of the witnesses have stated that they have seen the petitioner with deceased while administering some poisonous substance. The petitioner bears no criminal antecedent and he undertakes that he will fully co-operate in the investigation or in the proceeding of the Court, let the petitioner above named be released on bail, in the event



of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate-V, Darbhanga in connection with A.P.M. (Ashok Paper Mill) P.S. Case No. 37 of 2021, subject to the conditions laid down in Section 438(2) Cr.P.C. with the further condition that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J)

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