

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31829 of 2025

Arising Out of PS. Case No.-212 Year-2024 Thana- KARAI PARSURAI District- Nalanda

Baiju Prasad @ Baiju Kumar S/O Balmiki Prasad @ Balmiki Gop R/O
Village- Surajan Chak, P.S- Karai Parsurai, Distt.- Nalanda.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Lovekush Kumar, Advocate
For the State	:	Mr. Uma Shankar Prasad Singh, APP
For the Informant	:	Mr. Shyamal Prakash, Advocate

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

3 23-07-2025 Heard learned counsel for the petitioner, learned
counsel for the informant and learned APP for the State.

2. The petitioner is apprehending arrest in connection with Karai Parsurai P.S. Case No. 212 of 2024, dated 23.11.2024, lodged under Sections 103(1) and 3(5) of the Bhartiya Nyaya Sanhita, 2023 (hereinafter referred to as “BNS, 2023”), pending before the Court of A.C.J.M., I, Hilsa (Nalanda).

3. As per the prosecution, FIR has been lodged against three named accused persons, including the present petitioner, with the allegation that the present petitioner, along with the other accused, namely Ravi Prasad, assaulted the informant’s brother repeatedly on the stomach with a brick and on the thigh



with an iron rod. When they arrived, the informant found that his brother was badly injured, and during treatment, the informant's brother died.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence. He further submits that the antecedent of the petitioner is clean and the entire allegation is absolutely false. He further submits that the FIR was lodged after a delay of about two days from the occurrence. He further submits that on a previous occasion, the case diary was called for, and in the case diary, the entire material indicates that the death was caused due to an accident. He further submits that various independent witnesses, as well as the petitioner's relatives, have categorically stated in paragraph No. 44 that the informant's brother and the petitioner used to drive the truck, and on the said day both had reached and were collectively making repairs to the truck. However, due to a mistake, the vehicle moved back and the tire of the truck came onto the body of the deceased, due to which the body was broken in many places. Thereafter, the petitioner went to the hospital for treatment, but two days after the treatment, the informant's brother (deceased) died.

5. Counsel further submits that this is a case of an



unfortunate accident and not a case of murder, as mentioned in the FIR. He further submits that the hospital discharged the deceased after treatment, and thereafter, he died. He also submits that no offence is made out under Sections 103(1) and 3(5) of the BNSS, even at worst, the offence may be culpable homicide not amounting to murder, as it is an accidental death.

6. Learned counsel for the informant vehemently opposes the prayer for bail and submits that the FIR itself contains specific allegations against the present petitioner. He further submits that the post-mortem report indicates injuries on the body of the deceased, specifically on the chest and thigh. He further submits that even if, for the sake of argument, it is accepted that it was an accidental death, the accident occurred due to the petitioner's negligence, and therefore, at least Section 106(2) of the BNSS shall be attracted, which is a non-bailable offence. Since the negligence was caused by the petitioner, anticipatory bail should not be granted to him.

7. Learned APP for the State opposes the prayer for bail of the petitioner and submits that upon perusal of the case diary, it transpires that this is not a case under Section 103(1) but rather under Section 106(2).

8. In the present facts and circumstances, this Court is



not inclined to grant bail to the petitioner. Accordingly, the prayer for anticipatory bail of the petitioner is hereby rejected.

9. It is directed to the petitioner to surrender before the Trial Court within a period of 6 weeks from today. In case, the petitioner surrenders within six weeks, then the Trial Court is directed to pass order on his surrender-cum-bail application on the same day without being prejudice that the anticipatory bail of the petitioner has been rejected by this Court and the Trial Court shall pass order on the merit of this case.

(Dr. Anshuman, J.)

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