

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.63473 of 2024**

Arising Out of PS. Case No.-14 Year-2024 Thana- BALUA BAZAR District- Supaul

Raushan Mukhiya @ Raushan Kumar Mukhiya S/o Vakil Mukhiya R/o vill -  
Bhawanipur, ward no. 3, P.S. - Phulkadh, Distt. - Supaul

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

|                      |   |                               |
|----------------------|---|-------------------------------|
| For the Petitioner/s | : | Mrs. Arpana Kumari, Advocate  |
| For the State        | : | Mr. Jitendra Kumar Singh, APP |

**CORAM: HONOURABLE MR. JUSTICE RAJIV ROY**  
**ORAL ORDER**

4      17-01-2025                                      Heard Mrs. Arpana Kumari, learned counsel for  
the petitioner and Mr. Jitendra Kumar Singh, learned APP for the  
State.

2. Pursuant to the last order, the Sub-Inspector Balua  
Bazar, Amit Kumar is present in the Court.

3. The petitioner is in custody in connection with  
Balua Bazar (Lalit Gram O.P.) P.S. Case No. 14 of 2024 for the  
offence punishable under sections 302 and 34 of the Indian Penal  
Code, lodged on 29.02.2024 by the informant, Ganita Devi.

4. As per the prosecution story, allegation is that  
during a marriage ceremony on 19.02.2024, this petitioner  
alongwith Vakil Mukhiya and Dheeraj Mukhiya came to the  
house of the informant and took her husband away who,  
however, failed to return. Upon search, her husband was found  
in injured condition, was shifted to private Hospital, then to



Sadar Hospital, Araria and finally to Purnea where, after 10 days of treatment, on 29.02.2024, the death took place which led to the FIR.

5. This Court while hearing the matter on 03.12.2024 and having found two versions floating in the area relating to the occurrence vide paragraph nos. 8 to 13 passed the following order:

*8. In this case, a Coordinate Bench had called for the case diary which is on record and this Court after its perusal can observe that the Police completely failed to conduct the investigation professionally.*

*9. On the one hand, there is a version that both Vakil Mukhiya and the deceased met with an accident and ten days later, the husband of the informant died. The other version is the FIR, where allegation of killing is on Vakil Mukhiya as also his two sons. The vital treatment documents which could have thrown light in the matter is not part of the record.*

*10. The least that was expected from the Police was to procure all the documents of the treatment of the informant's husband starting from 19.02.2024 till his death to ascertain the real facts. Further, the C.D.R. location of the two sons could also have been procured to ascertain whether they accompanied the deceased alongwith their father or not and/or their*



*whereabouts at the time of occurrence.*

*11. Police has miserably failed to investigate the case in a professional manner and in a haste, to meet the deadline, submitted charge-sheet.*

*12. In that background, the Superintendent of Police, Supaul is directed to look into the matter, assign the file of this case to a Police Officer not below the rank of the Deputy Superintendent of Police who shall pick-up the threads and come to a final conclusion on the following points:*

*(i) whether it is a case of assault which led to the death of the informant's husband and/or actually Vakil Mukhiya and the deceased met with an accident;*

*(ii) whether there is any involvement of the two sons of Vakil Mukhiya which can be best ascertained with their C.D.R. location.*

*13. The Dy.S.P. shall immediately:*

*(i) collect the medical documents relating to the treatment that took place between 19.02.2024 to 29.02.2024;*

*(ii) the CDR location of the two sons of Vakil Mukhiya.*

6. Pursuant thereto, a reply has come on behalf of the Superintendent of Police, Supaul duly signed by the Sub-Divisional Police Officer, Nirmali.

7. The persons who were investigated by the earlier



Investigating Officer, namely Amit Kumar (Sub-Inspector) were again enquired into by the Deputy Superintendent of Police, Headquarter, Supaul and two versions have come by most of the witnesses inasmuch as earlier they heard about the accident and later about the assault by Vakil Mukhiya. The Deputy Superintendent of Police, Headquarter, Supaul also took statement of the one Amar Kishore at Sadar Hospital, Araria, according to whom there was swelling on the right frontal area as also right eye and though the other injuries were found to be simple, the injury on the frontal area of skull was found to be grievous.

8. The Deputy Superintendent of Police, Headquarter, Supaul then went and took statements of the other Doctors namely Pradeep Kumar as also Vinod Kumar at Jawaharlal Nehru Medical College and Hospital, Bhagalpur and according to them, **despite advice of city scan of brain, the patient did not follow it and the family members took away the patient without any permission by Doctor.**

9. It however finds that that the mobile location of the Vakil Mukhiya as also his sons have been found near the place of occurrence. The Deputy Superintendent of Police, Headquarter, Supaul interrogated the accused, Vakil Mukhiya and his son Raushan Mukhiya and according to them, the Vakil



Mukhiya and Manraj Mukhiya were attending a marriage ceremony. Both of them decided to consume liquor, moved to a place on a motorcycle, met with an accident, Manraj Mukhiya got injured. He with the help of a local called others and thereafter Manraj Mukhiya was shifted to the Hospital.

10. The Police however on the basis of enquiry has come to the conclusion that in view of the fact that Vakil Mukhiya did not directly took the locals to the actual place of occurrence nor gave his correct address, he can be put under the category of accused. Further, the motorcycle does not show that it met with an accident.

11. This Court enquired from the Sub-Inspector Amit Kumar as to while recording its version in the case diary that the motorcycle had no accident sign, any picture/photograph was taken or not at that time, the answer is in negative. He however produced a photograph of the motorcycle taken after the order passed by this Court on 03.12.2024 which is fit to be rejected given the fact that the occurrence is of 20.02.2024 and it was the duty of the Investigating Officer to get the photo photo of the motorcycle taken immediately thereafter which he failed to do.

12. The Sub-Inspector Amit Kumar, completely failed in his duty to investigate the matter inasmuch as:

*(i) though it met with the Doctor chose not to*



*record a proper statement which has now come in the enquiry report of the Deputy Superintendent of Police, Headquarter, Supaul;*  
*(ii) there is nothing on record in the case diary to show that the Investigating Officer enquired from the Doctor as to if it was a case of assault, why the Police was not informed;*  
*(iii) he did not take the photograph of the motorcycle as the second version is that both Manraj Mukhiya (deceased) and Vakil Mukhiya met with an accident while they were moving in search of liquor;*

13. In the opinion of the Court, the investigation has been faulty and vital evidence stands destroyed. Even now, the Police failed to go to the root of the occurrence. However, without making any comment further as it is the lookout of the Superintendent of Police, Supaul to see what steps it intend to take in the light of this faulty investigation against the erring Police Official, the Court is of firm belief that further investigation again has to be conducted in which the Investigating Officer, Amit Kumar should not be present. This has to be done under the supervision of the Superintendent of Police, Supaul himself as the Deputy Superintendent of Police, Nirmali in his enquiry took along Amit Kumar which was not required and he was duty bound to conduct enquiry



independently.

14. So far as the petitioner is concerned, since the Police though has submitted chargesheet is still confused even after the Court requested the investigation by the Deputy Superintendent of Police, this petitioner is only 21 years of age, has no criminal antecedent, is in custody since 01.03.2024 (i.e. from the date of occurrence), two versions are still available, in the opinion of the Court, role has been assigned to his father, Vakil Mukhiya (as per the Police version), in that background, this Court is inclined to extend him the privilege of bail.

15. Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of like amount each to the satisfaction of learned Judicial Magistrate 1<sup>st</sup> Class-1, Supaul/Succesor Court Supaul in connection with Balua Bazar (Lalit Gram O.P.) P.S. Case No. 14 of 2024, subject to the following conditions:

(i) one of the bailor should be the family member/relative of the petitioner who shall provide official document to show his *bona fide*;

(ii) the petitioner shall appear on each and every date before the Trial Court failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial Court itself;



(iii) the petitioner shall appear before the concerned police station every fortnight for next six months to mark his attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of bail bonds.

16. The personal appearance of Sub-Inspector Amit Kumar stands dispensed with. However, he is cautioned to be careful in future and having got a government job and he being a Public Servant, must see to it that the duty that has been assigned should be done diligently and not in a faulty manner as he did in the present case.

**(Rajiv Roy, J)**

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