

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73856 of 2024

Arising Out of PS. Case No.-81 Year-2021 Thana- DHANARUA District- Patna

Shailesh Kumar Son of Suryadeo Prasad Permanent Resident of Village -Chakjohra, PS- Dhanarua, District- Patna, at Present residing at Village- Pipra, PS- Ramkrishnanagar, District -Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Awadhesh Kumar Mishra, Advocate Mr. Ravi Shanker Pankaj, Advocate
For the State	:	Mr. Shailendra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 18-01-2025 Heard learned counsel for the petitioner and learned APP for the State.

2. In the present case, the petitioner seeks bail in connection with Dhanarua P.S. Case No. 81 of 2021 registered on 29.03.2021 for the alleged offences under Section 302 of the Indian Penal Code.

3. As per prosecution case, the son of the informant was with the petitioner in the night and did not return thereafter. On the next date, when the informant searched the pond of the petitioner, dead body of the son of the informant was recovered.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this



case. There is no eye-witness to the alleged occurrence. Petitioner has been named in this case merely due to the reason that pond, in which the dead body was recovered, belongs to the petitioner. The petitioner has been living in Patna and has been doing business of sweets. The son of the informant had returned from Chennai and he was alcoholic and might have drowned in the water in drunken state. Initially the informant stated that his son drowned in the pond and inquest report was also prepared at the spot and no injury was found on the body of the son of the informant. However, in his restatement, the informant improvised the story and stated about recovery of dead body in a bag but this restatement was recorded after three and half years from the date of occurrence. The informant is having old dispute with petitioner and his family and for this reason the petitioner has made accused in the present case. Learned counsel further submits that in post-mortem report, cause of death has been reserved till results of visceral/chemical analysis report. However, the report of Forensic Science Laboratory disclosed the cause of death to be asphyxia resulting from forceful drowning following head injury which cannot be ruled out and injury over head stated to be ante-mortem in nature caused by hard and blunt object.



Learned counsel further submits that there is no allegation of assault but the death is stated to be caused due to cranio-cerebral injuries. However, it was a case of accidental death and even if the allegation is accepted, only offence which could be made out against the petitioner is under Section 304A of the Indian Penal Code. Petitioner is in custody since 09.07.2024 and charge-sheet has been submitted. Petitioner is having antecedent of one case in which he is on bail.

5. Learned APP opposes the submission made on behalf of the petitioner. Learned APP submits that post-mortem report and other forensic examination shows it was a case of forceful drowning which resulted from asphyxia following head injury which was caused by hard and blunt object. Learned APP further submits that the petitioner was the person who was last seen with the son of the informant.

6. Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the varying allegations of the informant about the occurrence and further considering the submission of charge-sheet, the petitioner above named is directed to be released on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned



Judicial Magistrate-1st Class, Masaurhi, Patna/concerned court
in connection with Dhanarua P.S. Case No. 81 of 2021, subject
to the conditions mentioned in Section 437(3) of the Code of
Criminal Procedure and also the following conditions :

- (i) One of the bailors will be a close relative of
the petitioner.
- (ii) The petitioner will remain present on each
and every date fixed by the court below.
- (iii) In case of absence on three consecutive
dates or in violation of the terms of the bail, the
bail bonds of the petitioner will be liable to be
cancelled by the court concerned.

(Arun Kumar Jha, J)

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