

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL MISCELLANEOUS No. 27530 of 2021**

Arising Out of PS. Case No.-41 Year-2020 Thana- TETERHAT District- Lakhisarai

Chhotu Kumar @ Abhishek Raj, aged about 19 years, Son of Ashok Ram,  
Resident of Village - Mahisona, PS- Tetarhat, District - Lakhisarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Mayank Bilochan, Advocate  
For the State : Mr. Satyendra Prasad, APP  
For the Informant : Mr. Bhim Sen Prasad, Advocate

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH  
ORAL JUDGMENT**

**Date : 21-08-2021**

The matter has been heard *via* video conferencing.

2. The case has been taken up out of turn on the basis of motion slip filed by learned counsel for the petitioner on 09.08.2021, which was allowed.

3. Heard Mr. Mayank Bilochan, learned counsel for the petitioner; Mr. Satyendra Prasad, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State and Mr. Bhim Sen Prasad, learned counsel for the informant.



4. The petitioner apprehends arrest in connection with Tatarhat PS Case No. 41 of 2020 dated 21.04.2020, instituted under Sections 188, 269, 270, 302/34 of the Indian Penal Code and 3 of the Epidemic Diseases Act, 1897.

5. The allegation against the petitioner is that he and his father had gone to the house of the deceased at night and had coerced him to go for lifting sand at night and thereafter, from the tractor of the father of the petitioner, the husband of the informant was crushed leading to his death.

6. Learned counsel for the petitioner submitted that he has been implicated only because he is the son of the person who owned the tractor. It was submitted that he is a student and has nothing to do in the entire episode. It was submitted that the petitioner has no criminal antecedent. Learned counsel submitted that during investigation nothing has come against the petitioner and final form has been submitted by the police not sending him up for trial in which it has been stated that the father of the petitioner, who was also the owner and driver of the tractor was responsible for the death of the husband of the informant and he had surrendered before the Court below and was in judicial custody. Learned counsel submitted that chargesheet has been submitted under Sections 279, 337 and 304 of the Indian Penal



Code against the father of the petitioner. It was further submitted that it is only the informant and persons close to him and close relatives who have supported the prosecution story and no independent witness has supported it.

7. Learned APP submitted that the petitioner was equally responsible for having forced the husband of the informant to go for illegal loading of sand on the tractor belonging to his father.

8. Learned counsel for the informant submitted that the petitioner had also come with his father to the house of the deceased and had forced him to go with them for the purpose of loading sand illegally. Thus, it was submitted that the petitioner was equally responsible for having forced the husband of the informant to commit such crime which has resulted in death as he was crushed by the tractor. Learned counsel submitted that there is admission on the part of the petitioner that the tractor owned by his father was being used for illegal sand mining and, thus, from the circumstances, it is also obvious that the petitioner accompanied his father to the house of the deceased compelling him to come and get his tractor loaded with sand which was illegal and that is why it was being done at night. Learned counsel submitted that the Court has taken cognizance under Section 302



of the Indian Penal Code as also the witnesses have supported the prosecution case. However, it was not controverted that the only allegation against the petitioner is that he had also come with his father to the house of the deceased for calling him.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that basically it is the father of the petitioner who is responsible for the incident, as he was driving the tractor and was also the owner of the same and the husband of the informant appears to have been forced to go for loading the sand on the tractor at night, since it was being illegally done, which has resulted in the accident for which, there are chances that the petitioner just because he was son of co-accused Ashok Ram has also been implicated. Thus, taking an overall view in the matter, the Court is persuaded to allow the prayer for pre-arrest bail.

10. Accordingly, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Lakhisarai in Tetarhat PS Case No. 41 of 2020, subject to the conditions laid down in Section 438(2) of the Code of Criminal



Procedure, 1973 and further, (i) that one of the bailors shall be a close relative of the petitioner, (ii) that the petitioner and the bailors shall execute bond with regard to good behaviour of the petitioner, (iii) that the petitioner shall also give an undertaking to the Court that he shall not indulge in any illegal/criminal activity, act in violation of any law/statutory provisions, tamper with the evidence or influence the witnesses and (iv) that the petitioner shall cooperate with the Court and police/prosecution. Any violation of the terms and conditions of the bonds or the undertaking or failure to cooperate shall lead to cancellation of his bail bonds.

11. It shall also be open for the prosecution to bring any violation of the foregoing conditions by the petitioner, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioner.

12. The petition stands disposed of in the aforementioned terms.

**(Ahsanuddin Amanullah, J.)**

P. Kumar

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