

**In the Court of Additional Sessions Judge-V, Danapur**  
**Session Trial No. 528 of 2021**

**(Arising out of Bihta (Neora O.P.) P.S. Case No. 249 of 2021)**

02.09.2022

The bail petition filed on dated 28.07.2022 on behalf of the accused-petitioner namely Saurabh Prakash @ Saurabh Kumar, son of Vinod Kumar, R/o Village-Makhdumpur, P.S. Bihta (Neora), District-Patna has been pressed today. A copy of the bail petition has already been served to the learned Addl. P.P.

The petitioner is in judicial custody since 27.03.2021 in connection with Bihta (Neora O.P.) P.S. Case No. 249 of 2021 registered under Sections 363 and 365 of the I.P.C. and later on Sections **302, 201 and 120(B)/34** of the I.P.C. has been added.

Heard Sri Saket Anand on behalf of the accused-petitioner and learned Addl. P.P. on behalf of the State.

The prosecution story, in brief, is that an FIR has been lodged on the written complaint of the informant namely Vinod Kumar alleged that on 23.03.2021, when he went for his work at brick kiln, then his sons namely Saurabh Kumar and Gulshan Kumar from his first wife came to meet him and said that they want to dig a pond for fishing as per their mother wish. But, the informant did not respond to their proposal and they returned from there by his Tata Safari Car. It is further alleged that his two minor sons from the second wife namely Anish Kumar and Shivam Kumar were playing nearby, then the aforesaid accused persons took them in their car and fled away. The informant tried to chase them with the help of nearby people, but failed. Lastly, it is alleged that the petitioner and their two sons abducted the aforesaid two minor children of informant from the second wife with connivance with each other and with intention to grab his property.

The learned counsel for the accused-petitioner submitted that no ingredients of non-bailable sections are applicable in this instant case and the instant case has been lodged against the petitioner who is the son from the first wife of the informant and informant has lodged this case with ulterior motives just to grab the property of the petitioner and his mother which they have got after the partition among the parties in the year 2013. The investigation has been completed in this case and charge sheet has been submitted in this case on 02.06.2021 against the petitioner u/ss 363, 365, 302, 364, 201, 120(B) of the I.P.C.. The name of the petitioner has been implicated in this case along-with his mother and younger brother due to family dispute and the informant is an ill character person and he is a person with criminal intent which is quite apparent from the prosecution story. There is nothing except the confessional statement against the petitioner and there is no overt or covert act of the petitioner which can be stated as the direct evidence, the confessional statement has no evidentiary in the eye of law. It is pertinent here to note that one of the co-accused person namely Sunita Devi, who is the mother of the petitioner having the similar allegations have been pleased to be enlarged on regular bail vide order dated 05.07.2022 in Cri. Misc. No. 46336/2021 by the Hon'ble High Court, Patna. The petitioner is in judicial custody since 27.03.2021 without any valid or cogent reasons and till date charges have not been framed in this case. The petitioner has no criminal antecedent. The petitioner has not filed/moved any bail application either regular or anticipatory before this learned Court or any other court in connection with this instant case except regular bail No. 859/2021 which was rejected vide order dated 23.11.2021 on the reason for want of prosecution by the learned court of A.D.J.-I, Danapur.

Learned A.P.P. vehemently opposed the prayer of bail and submitted that this is a case of murder of two minor children and the allegation is serious in nature. He further submitted that Para 2, 3, 5, 6, 15, 16, 25, 26, 27, 28, 29, 30, 36, 37 of the case diary the witnesses have supported the case of prosecution. The allegation of the informant is corroborated with postmortem report.

contd.  
02.09.2022

I have heard the rival submission of both the sides and perused the case record. The petitioner is named in the FIR. The allegation against the accused-petitioner is to murder the two minor children of the informant in connivance with the accused persons. In Para 2, 3, 6, 15, 16, 25, 28, 29, 30, 36, 37, 69, 86 of the case diary the witnesses have supported the case of prosecution. During the course of investigation the case has been found true against the petitioner and charge sheet has been submitted by the I.O against the accused-petitioner under Sections 364, 302, 201, 120(B) of I.P.C. The case is at the stage of framing of charge. As per Para 3 of the bail petition the petitioner has no criminal antecedent. The allegation is serious in nature. Considering the facts and circumstances of case, nature of allegation, gravity of the offence, stage of the case and there is serious apprehension that the accused-petitioner herein may threaten and influence the witnesses not to depose before the court or to depose in favour of the applicant, I am not inclined to enlarge the petitioner/accused on bail. Accordingly the bail petition of the petitioner is hereby **rejected**.

Any observation made herein will be inconsequential during trial or any further stage of the case.

(Dictated)

**Sd/-**

Additional Sessions Judge-V

Danapur

02.09.2022