

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.25514 of 2015

Arising Out of PS.Case No. -4 Year- 2015 Thana -SANHOLA District- BHAGALPUR

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Zenith Praveen @ Zeennat Praveen @ Zeenat Pravin, daughter of Shekh Sidhiki @ Sidho, resident of village:- Gadakkachak, P.S.: Sanhoula, District:- Bhagalpur.

.... Petitioner/s

Versus

The state of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. N.K.Agrawal, Sr. Advocate.
Mr. Ranjan Kumar Jha, Advocate.

For the Opposite Party/s : Mr. J.N.Thakur, APP
Mr. Ajay Kumar Jha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

3 27-08-2015 Heard learned counsel for the parties.

The petitioner facing prosecution for offence under Sections 201 and 302/34 of the Indian Penal Code and has cut out a defence that even if the entire prosecution is accepted on its entirety, nothing at least against her is available at this stage on the basis of which she can also be alleged to have played any role in the murder of Ziya Uddin.

Mr. N.K.Agrawal, learned senior counsel appearing on behalf of the petitioner, has submitted that as per the prosecution case, it was affair between the petitioner and the deceased which became the cause of concern for the family members of the petitioner and therefore whatever allegations have been made against the family members in respect of doing away with the life of the petitioner is accepted to be

true, the petitioner's role will not be there because there is nothing to connect the meeting of mind of the petitioner with her family members for causing the murder of the deceased.

Learned counsel for the informant, on the other hand, as also Mr. J.N.Thakur, learned A.P.P., had tried to highlight the aspect that the prosecution case revolves around against this petitioner alone who is said to have intimate relationship with the deceased and it has also surfaced during the course of investigation that prior to murder of the deceased, there was an altercation between the petitioner and the deceased as with regard to some objectionable recording made and photograph taken in the mobile phone of the deceased, the finger of accusation of the petitioner can also be there inasmuch as after Md. Mozim Alam who was the sheet anchor and sole eyewitness in the F.I.R. has found to be accused in this case which in turn has this whole case one of circumstantial evidence.

Both the learned counsels for informant and state have also accepted that the only eye witness named in the F.I.R. being Md. Mozim Alam having himself been made accused in this case, there is now no direct evidence of the petitioner's implication in this case inasmuch as whatever informant also had stated in the F.I.R. was based on hearsay version from Md. Mozim Alam who, as stated above, in course of investigation by the police, is said to have been found involved in the murder of the deceased and thus, made accused.

Learned counsel for the informant, however, has

emphasised on the aspect that since the petitioner is not appearing before police on account of either the interim protection given by this Court or her remaining traceless in the earlier period, the further investigation, which is being carried out against her has made no progress.

Having regard to the materials existing as of now and particularly in the case diary, which has been produced before this Court, it will have no difficulty in holding that there is nothing against her to directly implicate her in the murder of the deceased. The fact, however, remains that she appears to be the nucleus on which the entire prosecution is revolving in the sense that it is her affair with the deceased which ultimately led to either personal difference on the issue of photograph and recording in the mobile of the deceased or the family members of the petitioner becoming annoyed on account of objectionable relationship of the petitioner with the deceased, who was a married man, aged about 40 years and was also having three children.

In such circumstances, this Court, having found that the petitioner has got no criminal antecedent, would direct the petitioner namely Zenith Praveen @ Zeenat Praveen @ Zeenat Pravin, to surrender before the court below within a period of four weeks from today and if she does so, the court below shall release her on provisional bail for a period of four months on furnishing bail bond of Rs. 10,000/- with two sureties of the like amount to the satisfaction of the learned Judicial Magistrate, Ist Class, Bhagalpur in connection

with Sanhoula P.S. Case No. 04 of 2015; subject to the following conditions:

(i) That both the bailors will be close family relatives of the petitioner, who will undertake an affidavit giving genealogy as to how they are related with the petitioner. The bailors will also undertake to inform the court if there is any change in the address of the petitioner.

(ii) That the affidavit shall clearly state that the petitioner is not accused in any other case and if she is, she shall not be released on bail.

(iii) That the bailors shall also state on affidavit that they will inform the court concerned, if the petitioner is implicated in any other case of similar nature after her release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of her bail on the ground of misuse.

(iv) That the petitioner will be well represented on each and every date in course of trial and if she fails to do so on two consecutive dates, her bail will be liable to be cancelled on this ground alone.

After the petitioner is granted provisional bail, she, within one week thereafter, must appear before the Officer-in-Charge of Sanhoula Police Station, who thereafter may interrogate the petitioner in presence of a lady police personnel and proceed to investigate further

in the matter. If the police would need any further cooperation from the petitioner in the matter of investigation that will be extended by the petitioner and in the event she declines to do so, a report thereof shall be submitted by the Officer-in-charge to the trial court whereafter the trial court, after making inquiry and giving opportunity of hearing to the petitioner, shall cancel the provisional bail of the petitioner.

The instigating officer, after having completed necessary interrogation of the petitioner and as also further investigation within a period of three months of the petitioner appearing before the Sanhoula Police Station, shall submit its report confining to the role of the petitioner, if any, found in the murder of the deceased Zia Uddin.

If, the court below finds from such report of Investigating Officer that there is any such material which may directly implicate the petitioner in the alleged offence her provisional bail shall not be extended and she will be taken into custody but on the other hand if there is nothing incriminating in such report of the investigating officer so as to directly implicate the petitioner, her provisional bail shall be confirmed.

With the aforesaid observations and directions this application is disposed of.

(Mihir Kumar Jha, J)

Sujit/-

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