

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.39946 of 2017

Arising Out of PS.Case No. -48 Year- 2017 Thana -GARAUL District- VAISHALI(HAJIPUR)
=====

Prem Shila Devi, wife of Devendra Das, resident of Village- Chehra
Khurda, P.S. Goraul (Kathara O.P.), District- Vaishali.

..... Petitioner/s

Versus

The State of Bihar

..... Opposite Party/s

=====

with

Criminal Miscellaneous No.37749 of 2017

Arising Out of PS.Case No. -48 Year- 2017 Thana -GARAUL District- VAISHALI(HAJIPUR)
=====

Dharmendra Kumar, Son of Ram Prasadha Rai, R/o Village- Maruahan,
P.S.- Sakra (Bariyarpur O.P.), District- Muzaaffarpur.

..... Petitioner/s

Versus

The State of Bihar

..... Opposite Party/s

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Appearance :
(In Cr.Misc. No.39946 of 2017)
For the Petitioner/s : Mr. Navesh Nandan-Advocate
Mr. Manu Kumar-Advocate
For the Opposite Party/s : Mr. Md. Nazir Ansari-A.P.P.
(In Cr.Misc. No.37749 of 2017)
For the Petitioner/s : Mr. Anuj Kumar-Advocate
Mr. Ansul-Advocate
For the Opposite Party/s : Mr. Nityanand-Advocate
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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

04 13-12-2017 Cr. Misc. No.39946 of 2017 wherein Prem Shila Devi

is the petitioner and Cr. Misc. No.37749 of 2017 wherein

Dharmendra Kumar is the petitioner commonly originate out of

Garaul P. S. Case No.48 of 2017, on account thereof, have been

heard together and are being decided by a common order.

Heard learned counsel for the petitioners as well as



learned Additional Public Prosecutor along with learned counsel for the informant.

Surja Devi filed written report disclosing therein that in the night of 12.03.2017, her son Santosh Kumar slept in his house. In the morning, he was not found over his bed as a result of which, she gone in search and during course thereof, his dead body was found in a banana cluster lying by the side of house of her co-villager Prem Shila Devi having so many injuries over the dead body. Police was informed and after arrival, several places were inspected/ visited and during course thereof, blood was found inside the house of Prem Shila Devi. She had further stated that her son was on strained relationship with Prem Shila Devi.

Learned counsel for the petitioner Prem Shila Devi has submitted that none is an eye witnesses to occurrence. That being so, petitioner, who has been implicated on the basis of so called inculpatory extra-judicial confessional statement before the police, being inadmissible in the eye of law, could not be found basis for declining the prayer of the petitioner. Furthermore, it has also been submitted that presence of blood unless and until properly examined by the F.S.L. and found to be human blood, could not be taken against the petitioner. It has also been submitted that Varun Kumar @ Barun Kumar had already been released on bail vide order dated 11.10.2017 passed in Cr. Misc.



No.45881 of 2017.

On behalf of petitioner Dharmendra Kumar, it has been submitted by the learned counsel for the petitioner that his name found introduced during course of inculpatory extra-judicial confessional statement of the co-accused without having any kind of connecting evidence collected against him during course of investigation by the I.O., so his case stood at par with the co-accused Varun Kumar, who had already been granted bail under Cr. Misc. No.45881 of 2017.

From the case diary, it is evident that deceased had developed illicit relationship with Prem Shila Devi since long. They became averse after having deceased married even then, sometimes he was allured by the petitioner Prem Shila Devi and on the fateful night, his absence as well as recovery of dead body by the side of house of the petitioner Prem Shila Devi is an additional circumstance on that very score. Furthermore, during course of investigation as is evident from Para-3 of the case diary, police had inspected house of the petitioner and had found the floor of the of the house to be cleaned just now even then, blood spots were hither and thither as well as over some utensils and those things were seized by the police along with a mobile set, which the petitioner never claimed. Apart from this, the SIM Number of seized mobile set



happens to be 7464082092 while as per Para-45 of the case diary, the SIM belongs to the petitioner Prem Shila Devi, 9934584455. Furthermore, Para-83 of the case diary, the call details happens to be an additional link on that very score.

That being so, prayer for bail of petitioner Prem Shila Devi is hereby rejected.

So far petitioner Dharmendra Kumar is concerned, save and except inculpatory extra-judicial confessional statement of Varun Kumar as well as Prem Shila Devi nothing more remains and that being so, petitioner, **Dharmendra Kumar** is directed to be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Vaishali at Hajipur in connection with Goraul (Kathara O.P.) P. S. Case No.48 of 2017.

(Aditya Kumar Trivedi, J)

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