

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.12160 of 2017

Arising Out of PS.Case No. -311 Year- 2013 Thana -SIWAN CITY District- SIWAN

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Sonu Kumar @ Sonu S/o Shambhu Prasad Petitioner/s

Versus

The State of Bihar ... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Tiwary

For the Opposite Party/s : Mr. Sri Sunil Kumar Pandey

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR

JHA

ORAL ORDER

4 28-04-2017 Heard Sri Radha Mohan Singh, the learned counsel
for the petitioner, the learned Additional Public Prosecutor and Sri
Ajay Mishra, the learned counsel for the informant.

The petitioner seeks bail in Siwan Town P.S. case
No. 311 of 2013 under Section 302/34, 120B of the Indian Penal
Code.

Jainudin Ahmad, the informant, alleged that his
brother, Mainuddin @ Sajid Khan went to gym. Sanjit Kumar and
Sonu, resident of village Barka Tarwa came across with his
brother in the gym itself. One boy disclosed to his brother that a
plan was being hatched up to kill him. It is further alleged that
about 12 Noon Sanjit and Sonu came on a motor cycle and took
his brother. About 6.30 PM in the evening his grand mother
enquired about his brother/ deceased. His brother assured to return
after some time but thereafter the informant got information that
the accused persons killed his brother. The informant went to
hospital and saw the dead body of his brother lying on the ground.



The learned counsel for the petitioner submits that the informant named Sonu but parentage of Sonu is not stated in the FIR. In paragraph 20 of the case diary Raju Yadav and Sajid Ali disclosed that Saddam @ Monu @ Sonu was present with them at the time of occurrence. They further disclosed that Shilpkunj @ Vicky and eight other boys of the same Muhalla also participated in the killing of deceased. Shilpkunj @ Vicky, who is named in the FIR, was apprehended and he disclosed the name of Saddam, Sajid and Sonu. Raju Yadav and Sajid Ali disclosed the name of Saddam @ Monu @ Sonu. It is further submitted that name of Sonu does not figure till paragraph 91 of the case diary. In paragraph 92 of the case diary the police submitted charge sheet against 10 accused persons and the investigation against the petitioner was kept pending. It further submitted that save and except the fact that petitioner, though parentage of the petitioner was not mentioned in the FIR, is alleged to have took the deceased with the help of Sanjit but no material is collected during the course of investigation. The petitioner was arrested on 17.12.2016 and on the same facts charge sheet was submitted on 17.03.2017.

On the other hand, Sri Ajay Kumar Mishra, the learned counsel for the informant, and the learned Additional Public Prosecutor submitted that petitioner is named in the FIR. Even the name of petitioner figured in the confessional statement of Shilpkunj recorded in paragraph 27 of the case diary. From



perusal of paragraph 92 of the case diary, it would appear that Saddam @ Monu @ Sonu and petitioner, Sonu, are two different persons. The petitioner was evading his arrest. Some of the accused persons, namely, Raju, Sanjit, Abhishek and Rahul have been convicted under Section 302 and other Sections of the IPC. Other accused persons were discharged by the trial court but the informant filed case in the High Court against the order of discharge of other accused persons and the order, discharging the accused persons, has already been set aside and they are facing trial.

Perused the records.

It appears that petitioner, Sonu, is named in the FIR along with Sanjit, Sajid Ali and Raju Yadav. The petitioner and Sanjit are alleged to have taken the deceased, Mainuddin, with them and in the evening he was stabbed to death. It transpired, during the course of investigation, that many other accused persons also took part and assaulted the deceased and stabbed him to death. Bitu Soni, one of the accused, who is not named in the FIR, has been granted bail vide order dated 29.08.2016 passed in Cr. Misc. No. 26733 of 2016 but prayer for bail of many other accused, namely, Sanjit Kumar, Shilpkunj @ Vicky, Sudhir Kumar @ Sudhin Kumar, Rajan Turha, Anil Turha and Umesh Kahar were rejected and four of the accused persons, namely, Raju, Sanjit, Abhishek and Rahul were convicted. The petitioner



was arrested only on 17.12.2016. There is specific allegation that it was the petitioner and Sanjit Kumar, one of the convicts, who took the deceased with them and thereafter the deceased was stabbed to death.

Considering the facts aforesaid, I am not inclined to enlarge the petitioner on bail. Accordingly, the same is rejected.

If the case is committed to the Court of Sessions, the learned trial court shall hold the trial on day to day basis and conclude the same within nine months from the date of receipt of this order.

The Superintendent of Police, Siwan is directed to ensure the attendance of prosecution witnesses of Siwan Town P.S. case No. 311 of 2013 in the trial court so that the trial must be concluded within nine months.

Let a copy of this order be sent to Superintendent of Police, Siwan as well as the learned trial court for information and needful.

(Prabhat Kumar Jha, J)

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