

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.45980 of 2018

Arising Out of PS. Case No.-233 Year-2016 Thana- WARISNAGAR District- Samastipur

Sarwan Kumar @ Sarwan Kumar Roy @ Shrawan Roy, Son of Dinesh Banai
Roy @ Dinesh Roy @ Bani Roy, resident of Village Raipur, P.S.
Warisaliganj, District- Samastipur ... Petitioner

Versus

The State of Bihar ... Opposite Party

Appearance :

For the Petitioner : M/s Ajay Kumar Thakur & Babita Kumari, Adv.
For the Opposite Party : Mr. Bharat Bhushan, APP 156

CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

3 29-08-2018 Heard the learned counsel for the petitioner and the
learned counsel appearing for the State.

Petitioner had earlier moved for bail which which was rejected vide order, dated 13.11.2017, passed in Cr. Misc. No. 43506 of 2017. The petitioner is languishing in judicial custody since 16.10.2016 in connection with S. Tr. No. 321 of 2017 arising out of Warisnagar P.S. Case No. 233 of 2016 for offence alleged under Section 364/34 of the Indian Penal Code subsequently Sections 302 and 201 of the Indian Penal Code were added.

The prosecution case as lodged by the informant is that he had married his daughter to one Rahul Kumar, one and a half years back and while all of them had come to the informant's house and had gone to see mela, Rahul Kumar was just behind them and did not arrive at the mela. After two days,



his dead body was recovered from a field. It has been submitted by the learned counsel for the petitioner that he is innocent, there is no criminal history and has been falsely implicated only on suspicion. He submits that there is no eye witness to the alleged occurrence and simply because there was some earlier incidence wherein it is alleged that the petitioner had gone to the matrimonial house of the informant's daughter and had opposed the marriage and the confessional statement before the police has no evidentiary value in the eye of law and would not be sufficient evidence. He submits that the allegation of having love affairs with the informant's daughter is also not founded on any materials.

However, the learned Additional Public Prosecutor for the State opposes the prayer for bail.

With regard to the stage of trial, a report was called for from the Presiding Officer, Fast Track Court, I, Samastipur, who has sent a report, dated 07.08.2018, stating therein that out of 13 charge sheeted witnesses only one witness, P.W. 1, Sakil Roy, has been examined, for the rest process as well as non-bailable warrant of arrest have been issued.

Considering the facts and circumstances and the materials on record that that the trial has not progressed as well



as the period in custody, let the petitioner, above named be released on bail on furnishing bail bond of Rs.10,000/- (rupees ten thousand) with two sureties of the like amount each in connection with S. Tr. No. 321 of 2017 arising out of Warisnagar P.S. Case No. 233 of 2016 to the satisfaction of the Fast Track Court, I, Samastipur, subject to the following conditions :

(i) One of the bailors would be a close relative of the petitioner having sufficient immovable property, who will file an affidavit stating his relationship with the petitioner.

(ii) Petitioner will appear before the learned Court below during trial as and when required and failure to appear on two consecutive dates without assigning any reason will entail cancellation of his bail bonds.

(Nilu Agrawal, J)

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