

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.33937 of 2018

Arising Out of PS.Case No. -230 Year- 2017 Thana -BHAGWANPUR District- BEGUSARAI

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Jhunna Chaudhary @ Jhunnu Chaudhary, Son of Nathuni Chaudhary,
resident of Village- Bhagwanpur, P.S.- Bhagwanpur, District- Begusarai.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajay Thakur, Advocate

For the Opposite Party/s : Mr. Ahtash Ali Khan,

For the State : Mr. Tapeswar Shree, APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

5 08-08-2018 Heard learned counsel for the petitioner and learned

Additional Public Prosecutor for the State. Learned counsel for

the informant is also present.

The petitioner has been in custody since 14.12.2017

in connection with Bhagwanpur P.S. Case No. 230 of 2017

registered for the offences punishable under Sections

302/201/34 of the Indian Penal Code.

Learned counsel appearing on behalf of the

petitioner submits that though the petitioner has been named in

the First Information Report, the First Information Report which

has been lodged by the informant is after the statement recorded

by the S.I. of Khodawandpur Police Station who had recovered

the dead-body of one of the brothers. It is further submitted that



while the earlier statement of the Officer-in-charge of the Khodawandpur Police Station, the First Information Report can be treated to be the next statement and, therefore, it is quite possible that there was some pre-meditation in including the name of the father of Raushan Chaudhary, the present petitioner Jhunna Chaudhary. It is further submitted that the informant had all the occasion between the time of occurrence and thereafter, till the recovery of the dead-bodies to inform the police as to who had taken away his sons but no such statement has been found on the record, save and except the statement made by him on the following day on 12.12.2017 at 18:45 P.M. i.e., 06:45 in the evening. He thus, submits that the possibility of including the name as an after thought and on pre-meditation cannot be ruled out and the petitioner has been implicated in connection with the present case only because he is the father of the accused Raushan Chaudhary.

Learned counsel appearing on behalf of the informant has strongly resisted the bail application of the present petitioner and submitted that in case of double murder where both the sons of the informant had been taken away by the petitioner, his son and other co-accused persons, the state of



mind of the informant can well be imagined and there is no question of any name being included as an afterthought. It was only because of the chain of events which took place after the boys were taken away that the First Information Report was filed on the following day at 06:45 P.M.

Learned counsel for the State after perusal of the case diary also submits that such delay should not be considered at this stage and the petitioner is not entitled to the privilege of bail.

The dairy which has been called for and received in connection with this case, has been considered and gone into in-depth. However, neither the counsel for the informant nor the counsel for the State after perusal of the case diary have been able to place before this court any material to show that the informant had stated in front of any of the villagers and other persons who had conducted the hunt for his sons, that the petitioner Jhunna Chaudhary was also present and it was only after both the dead-bodies were recovered and after post-mortem that the name of the present petitioner has been brought into the case in the First Information Report lodged by him in the evening.



In view of the aforementioned facts and circumstances and upon consideration of the theory advanced by the learned counsel for the petitioner that the scope of pre-meditation cannot be ruled out and that the petitioner has got no criminal antecedent, let the petitioner above named, be released on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate 1st Class, Begusarai in connection with Bhagwanpur P.S. Case No. 230 of 2017, subject to the following conditions:-

- (1) One of the bailors will be his own blood relative, preferably, father, mother, brother, sister and/or their wife.
- (2) The petitioner shall not indulge himself in any similar offence till conclusion of the trial.
- (3) The petitioner shall remain physically present in court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reasons, his bail bonds shall be liable to be cancelled by the learned court concerned.
- (4) The petitioner shall co-operate with the investigation,



if not already concluded, and make himself available as
and when so required and in case of failure, the State
shall be at liberty to move for cancellation of bail.

(Anjana Mishra, J)

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