

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.45010 of 2018

Arising Out of PS.Case No. -143 Year- 2017 Thana -INDUSTRIAL District- BHAGALPUR

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1. Kapil Yadav, Son of Late Kusheshwar Yadav, resident of Village-Bhatoriya, Police Station- Madhu Sudanpur (Nathnagar), District-Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Praveen Kumar

For the Opposite Party/s : Mr. Md. Nazir Ansari

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

3 09-08-2018 Heard the learned counsel for the petitioner and counsel appearing on behalf of the State.

The petitioner is in custody since 04.01.2018 in connection with Industrial P.S. Case No.143 of 2017, registered under Sections 109, 115, 120(B), 307, 34 of the Indian Penal Code.

The learned counsel for the petitioner submits that the name of the petitioner has transpired on confessional statement made before the police by two persons, namely, one Pawan Sah, who is brother-in-law of the petitioner and one Maya Devi, who is said to be the person coming forth to engage the present petitioner for participating in a crime for killing her husband.

Learned counsel for the petitioner submits that the entire case is based on the confessional statement made before the



police which has no evidentiary value. It is further submitted that though the allegation has been leveled under Section 109, 114 and 120 B 307/34 and Sections 307/34 would not come into play as no overtact to attempt to murder has been committed by any of the accused persons. Moreover, the present petitioner has been named only on the confessional statement and not otherwise.

Learned counsel for the petitioner further placed on record one of the order dated 20.07.2018 passed in Cr. Misc. No.40144 of 2018 wherein one co-accused Shrawan Chaudhary has since been extended the privilege of bail by a coordinate Bench of this Court. It has further been pointed out that the investigation of the case has already been closed and the police has submitted chargesheet under Section 414 of the IPC.

In view of the aforementioned facts and circumstances of the case and the period of custody, let the petitioner, above named, is directed to be enlarged 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 A.C.J.M.-IX, Bhagalpur, in connection with Industrial P.S. Case No.143 of 2017, subject to following condition :-

- (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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