

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.25496 of 2018

Arising Out of PS.Case No. -687 Year- 2017 Thana -PHULWARI District- PATNA

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Md. Raj @ Md. Jauhar, S/o Md. Jalil, R/o Vill.- Ishapur
Nahar Par, P.S.- Phulwari Sharif, District- Patna.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar, Adv.

For the Opposite Party/s: Mr. Rajendra Singh Shastriji, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 17-05-2018 Heard the learned counsels for the petitioner,
informant and the State.

The petitioner seeks bail in connection with
Phulwari-Sharif P.S. Case No. 687 of 2017, dated
30.10.2017, instituted for the offences punishable under
Sections 364, 302 and 201/34 of the Indian Penal Code.

The petitioner, though has been named in the
First Information Report, but in a peculiar circumstance. The
informant, who is the father of the deceased, has alleged that
his son Mukesh Kumar (deceased) had gone missing. While
he was about to lodge a case regarding his son going
missing, he learnt from two of the friends of the deceased
that there was some dispute between the deceased and four
other friends of his and in the aforesaid dispute, the
deceased had participated in an aggressive manner. It was
because of this that the deceased was kidnapped and killed.



Later, the informant also came to learn through Dharmveer and Bobby that an attempt was made by some of the persons to search the deceased. The aforesaid two persons, viz. Dharmveer and Bobby were also accosted by the miscreants, but not finding Mukesh in the group, they left. The informant was further informed that shortly later, Mukesh Kumar (deceased) also came on a motorcycle when he was abducted by the accused persons.

Till this stage, the informant has not named the petitioner. In the later part of the First Information Report, it has been alleged by the informant that he has definite information that about eleven accused persons, including the petitioner, have abducted the deceased and killed him.

Learned counsel for the petitioner has submitted that there is no evidence with respect to the petitioner having fought or participated in the quarrel between the five accused persons who have been named and the deceased. Even while a search was being made for the deceased for killing him, the petitioner has not been named from the group of persons who were looking for the deceased. Thus, the allegation made in the First Information Report of the assumption of the informant that the petitioner also has participated in the occurrence is only based on surmises and conjectures. Though, during the course of the investigation, some of the witnesses have spoken about the



complicity/participation of the petitioner, but such statements are vague and do not specifically indicate towards any specific participation of the petitioner. On the confession of one of the co-accused persons, the dead-body was recovered. On *post-mortem*, it was found that the deceased died of asphyxia.

It does not appears to be probable, it has been argued, that so many persons would strangle the deceased. The petitioner perhaps, it has again been argued, has been made accused in this case only on the basis that he also is one of the members of the group with whom the deceased had fought earlier.

The petitioner is in custody since 16.12.2017 and does not have any criminal antecedent.

For such vague allegation against the petitioner and his period of custody, he is directed to be released on bail on his furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-XI, Patna, Sadar in connection with Phulwari-Sharif P.S. Case No. 687 of 2017.

(Ashutosh Kumar, J)

Praveen-II/-

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