

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.62322 of 2018

Arising Out of PS. Case No.-110 Year-2018 Thana- PIPRAKOTHI District- East Champaran

Nag Mani Singh, Son of Valiram Singh Resident of Village- Barwa Ward
No.07, P.S.- Sangrampur, District East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Jha

For the Opposite Party/s : Mr. Dr. Rabindra Kumar

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

3 17-12-2018

Heard Mr. Ajay Kumar Thakur, learned counsel for

the petitioner, Mr. Ansudhar Sharma, learned counsel for the
informant and Mr. J.N. Thakur, learned APP for the State.

The petitioner is apprehending arrest in a case registered
for the offences punishable under Sections 302 and 120(B)/34 of
the IPC and Section 27 of the Arms Act.

The prosecution case, as per the written report of Braj
Kishori Devi, dated 19.06.2018 submitted to the Station House
Officer, Pipra Kothi Police Station, is to the effect that on
18.06.2018, the husband of the informant, namely Rajendra
Prasad Singh, being the Ex-Sarpanch went to attend the
engagement ceremony in Motihari and there he stayed at night
since he had to attend the court proceeding on 19.06.2018. On
19.06.2018 at 12 PM, the sister of the informant, namely,
Nirmala Devi called the younger daughter of the informant,



namely Lovely Kumari and informed her that somebody has killed the husband of the informant near Math Banwari Chauk. After getting such information, the daughter of the informant became semi-unconscious. Subsequently, she called the informant and conveyed her about the incident. It is further alleged that ten days prior to the occurrence, the brother-in-law of the informant, Satendra Singh, Sudhanshu Kumar, Ajay Kumar Singh and Pramod Kumar Singh had stolen a file containing necessary documents from the house of the informant, for which, a written report was lodged in Pipra Kothi Police Station, as a result of which, they were angry with the husband of the informant. The other motive of the occurrence has been alleged that the accused persons used to put pressure upon the husband of the informant to sell the land since he was not having any male issue. The third motive of the said occurrence is that the husband of the informant used to expose the financial irregularities committed by Om Prakash Kumar @ Subhash Yadav, being the Ex-Panchayat Mukhiya, who used to give life threat to the husband of the informant.

It is submitted by learned counsel for the petitioner that the petitioner is not named in the FIR. His name subsequently sprang up in the subsequent statement of the informant as well



as other family members of the informant, recorded in paragraph nos. 7 to 13, wherein only suspicion has been raised against the petitioner. Though, co-accused Rana Thakur, in his confessional statement alleged that he was being hired by one Nitesh Kumar for committing murder and consequently, the husband of the informant was killed, but he did not name the petitioner. However, the other co-accused Bhuwar Singh in his confessional statement, recorded in paragraph no. 137 of the case diary, named the petitioner as the person, who hired him since the husband of the informant used to expose the financial irregularity of petitioner's wife, who was a Panchayat Mukhiya. So far as C.C.T.V. footage is concerned, it does not show the presence of petitioner on the place of occurrence rather it shows the presence of Rana Thakur at the place of occurrence who has given a different manner of occurrence.

Learned counsels for the informant and State submit that though, the petitioner is not named in the FIR, but in paragraph nos. 7, 8, 9, 11, 12 and 13 of the case diary including the subsequent statement of the informant, the witnesses have supported the accusation against the petitioner. Though, co-accused, Rana Thakur in his confessional statement, did not name the petitioner, but has described the manner of killing of



the husband of the informant, but co-accused Bhuwar Singh, in his confessional statement, named the petitioner as the person, who hired him, who subsequently hired the ultimate killer, i.e., Nitesh Kumar and Sarfaraj. Co-accused Bhuwar Singh has given vivid description as to how the victim was killed and his confessional statement is further being corroborated with the Call Detail Report (CDR) of the mobile of the petitioner, which reflects that on the date of occurrence, he was in constant touch with co-accused Bhuwar Singh. The C.C.T.V. footage suggests the presence of petitioner within one kilometer of the place of occurrence.

Having heard learned counsels for the parties, from bare perusal of the FIR, it appears that the petitioner is not named in the FIR and only suspicion was raised against the FIR named accused persons in the background of three motive, firstly, that the husband of the informant lodged a case against the FIR named accused persons for committing theft of the file containing necessary documents. Secondly, that the FIR named accused persons were interested in grabbing the land of the informant and thirdly, that the husband of the informant used to expose the financial irregularity committed by the then Panchayat Mukhiya. Though, the informant in her written



statement stated that other accused persons are also involved in offence, who are not known to her, but in her subsequent statement, she named the petitioner as the person who also used to give threat. To that extent, the subsequent statement of the informant is inconsistent with the FIR, which stipulates the names of known accused. Admittedly, there is no eye-witness to the occurrence and co-accused Rana Thakur and Bhuwar Singh are the persons who have given confessional statements and gave two different manner of the occurrence. Co-accused Rana Thakur has given details of manner of occurrence, but has not named petitioner. However, Co-accused Bhuwar Singh named the petitioner and has alleged that the petitioner actually hired him. Co-accused Bhuwar Singh has also named co-accused Rana Thakur as the person who is involved in commission of offence. To that extent, confessional statement of both co-accused are inconsistent with each other. Moreover, the FIR was lodged on 19.06.2018 when the confessional statement of co-accused Bhuwar Singh was recorded on 31.07.2018, after about half a month of the occurrence. Though, Call Detail Report reflects that there was a conversation between the petitioner and the co-accused Bhuwar Singh, but two mobiles of the petitioners were found at different locations. So far as C.C.T.V. footage is



concerned, it is not of the place of occurrence, rather the said footage is of the place which the petitioner claims to be his working site. Moreover, one of the FIR named co-accused Sudhanshu Kumar has been granted privilege of anticipatory bail by a co-ordinate Bench of this Court vide Cr. Misc. No. 61144 of 2018, considering the case of circumstantial evidence, whereas prayer for anticipatory bail of co-accused Ajay Kumar Singh has been rejected by other co-ordinate Bench of this Court, vide Cr. Misc. No. 59040 of 2018, basically on the ground of the said accused is having criminal antecedent.

Considering the fact that the informant came to know about the death of her husband on 19.06.2018 at 12 PM, whereas the FIR was registered on the same day at 10.25 PM, with meticulous detail of the involvement of the FIR named accused for committing the offence but even suspicion was not raised against the petitioner, though, the subsequent statement of the informant suggests that the petitioner was known to her from before hence there was no occasion for the informant not to name the petitioner in the FIR, coupled with the statement made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent, let the above named petitioner be released on anticipatory bail till the conclusion of investigation



in the event of arrest/surrender before the learned Court below within a period of twelve weeks from today, on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of like amount each to the satisfaction of learned Chief Judicial Magistrate, Motihari, East Champaran in connection with Piprakothi P.S. Case No. 110 of 2018, subject to the condition as laid down under Section 438(2) of the Cr. P.C.

(Dinesh Kumar Singh, J)

Amrendra/-

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