

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.42403 of 2018

Arising Out of PS.Case No. -215 Year- 2017 Thana -GOPALPUR District- PATNA

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1. Babita Devi W/o Vinay Pandey, R/o Vill.- Patariya, P.S.- Karouna O.P,
District- Jehanabad, At present postal Park, Ramvilash Chouk, P.S.-
Jakkanpur, District- patna.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Mishra

For the Opposite Party/s : Mr. Dr. Kumar Uday Pratap

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

3 26-07-2018

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 19.03.2018 in
connection with Gopalpur P.S. Case No. 215 of 2017 registered for
the offences punishable under Section 302/201 of the Indian Penal
Code.

Learned counsel for the petitioner submits that though
it is a case of brutal murder, there is no eye-witness to the
occurrence. The allegation against this petitioner is that she was
having an illicit relationship with the deceased and it was on
account of the said relationship, the deceased was murdered and
she had a hand to play as a conspirator.



Learned counsel appearing on behalf of the informant, however, submits that it is not only from a conspiracy angle in which the petitioner is involved but also as indicated, she had played an active role in the occurrence in which the brother of the victim had seen her dragging the victim and, thereafter, he was found murdered in the empty house and his body was recovered by the father.

Learned counsel for the petitioner, however, submits that the eye-witness who is seen to have witnessed, however, has given his statement under Section 164 Cr. P.C. after a gap of more than six months but in his earlier statement, he had made no such mention about the occurrence. The statement recorded under Section 164 Cr. P.C., by the brother of the victim boy who claims to be an eye-witness, however, his statement is open to suspicion and can cast a cloud on the prosecution story in view of the fact that the father and the mother of the victim boy who died, have categorically stated that on the date of occurrence, the younger brother of the victim was away to his village home. This fact stands corroborated by other witnesses too and, therefore, this statement subsequently is well open to controversy.

Learned counsel appearing on behalf of the State after



perusal of the case diary submits that though initially there was no story about the petitioner having any illicit relationship between the deceased and the petitioner, later on, during the course of investigation, certain villagers who had collected at the place where the dead-body was picked up i.e., besides the road side have stated the involvement of the present petitioner. Save and except, the said statement by the co-villagers, there is no further material to indicate that the petitioner was, in fact, having any illicit relationship with the deceased so as to establish her involvement in the murder.

Having considered all facts and circumstances of the matter and particularly in view of the fact that the statement under Section 164 Cr. P.C. by the so-called eye-witness, cannot be fully relied on, 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 Sub Judge IX cum Additional Chief Judicial Magistrate-9, Patna, in connection with Gopalpur P.S. Case No. 215 of 2017.

(Anjana Mishra, J)

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