

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.6862 of 2019

Arising Out of PS. Case No.-38 Year-2014 Thana- KADIRGANJ District- Patna

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VIJENDRA PRASAD Son of Late Rajdeo Prasad Resident of Village-Pandey
Bigha P.S.-Kadirganj, District-Patna

... .. Petitioner/s

Versus

1. The State of Bihar and Anr. Bihar
2. Sunil Kumar, S/o Late Umesh Prasad R/o Lazo P.S.- Pali, District- Jehanabad.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sheo Nandan Pandit

For the Opposite Party/s : Mr.Jitendra Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 07-02-2019 Heard both sides.

The petitioner apprehends his arrest in Complaint case No. 375© of 2017, arising out of Kadirganj P.S. case No. 38 of 2014, registered under Section 302/ 34 of the Indian Penal Code.

The complainant lodged Kadirganj P.S. case No. 38 of 2014 alleging that petitioner and others killed his father and threw his dead body. The police after investigation submitted final form finding the case false on account of lack of evidence. The complainant filed protest petition and after acceptance of protest petition the case proceeded on complaint. Thereafter, enquiry was held and prima facie case under Section 302/34 was found.



The learned counsel for the petitioner submits that there is no eye witness of the occurrence. The complainant came to the place of occurrence after receiving the information about the death of his father and recovery of dead body. The complainant disclosed that he came to know about the occurrence from the relatives of his Bua, father's sister, but the police after thorough investigation did not get sufficient evidence and submitted final form. On the evidence of such witnesses the learned Magistrate found prima facie case under Section 302/34 of the IPC.

The learned counsel for the complainant, while opposing the prayer for anticipatory bail, submits that witnesses deposed on oath that the petitioner and others on account of previous enmity murdered his father and threw his dead body in a ditch.

Having considered the facts that earlier the police submitted final form against the petitioner on account of lack of evidence and after acceptance of final form the case proceeded on protest, the witnesses came forward and deposed as eye witness of the occurrence but there appears no justifiable explanation by such witnesses for not giving information to the police immediately after the occurrence, the petitioner, above



named, in the event of his arrest or surrender before the learned court below within a period of four weeks from the date of receipt/ production of a copy of this order 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 Sri Ranjay Kumar, learned Judicial Magistrate, 1st class, Masaurhi in connection with Complaint case No. 375© of 2017, arising out of Kadirganj P.S. case No. 38 of 2014, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Prabhat Kumar Jha, J)

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