

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.47765 of 2018

Arising Out of PS. Case No.-82 Year-2017 Thana- UDAKISHUNGANJ District- Madhepura

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Dani Yadav, S/o Late Chhedi Yadav, R/o Vill.- Uda, P.S.- Udakishunganj,
District- Madhepura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Umashankar Prasad, Sr. Adv.

Mr. Lal Babu Keshari, Adv.

For the State : Mr. Ram Priya Sharan Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

4 27-03-2019 The prayer for bail of the petitioner was earlier

rejected *vide* order dated 09.01.2018 passed in Cr. Misc.

No. 55162 of 2017.

The petitioner seeks bail in connection with

Udakishunganj P.S. Case No. 82 of 2017 (Sessions Trial No.

84 of 2018), which was instituted for the offences under

Sections 302 and 201 of the Indian Penal Code.

The petitioner, apart from being the informant of



Udakishunganj P.S. Case No. 82 of 2017, referred to above, is also the father of the deceased. As the F.I.R. lodged by the petitioner goes, it is alleged that when the petitioner and his other daughters did not find the deceased at home, they made a search for her, only to find her dead-body in the maize field. On the basis of the aforesaid statement of the informant/petitioner, the subject F.I.R. was registered for investigation against unknown.

It further appears that during the course of investigation, one Manish Kumar made a statement under Section 164 Cr.P.C. alleging that in his presence, the deceased was dragged by her hair by the petitioner inside the home. The narrative of aforesaid Manish Kumar indicates that the deceased had chosen to stay back in her home, whereas the petitioner and his other daughters had gone to attend a village feast. Aforesaid Manish Kumar had called the deceased in the maize field for talking to her. Such a place and time was chosen by Manish Kumar in order to avoid any confrontation with the family members of the deceased especially her father. The further statement of



aforesaid Manish Kumar is that in the meantime, while he was chatting with the deceased in the field in the dead of the night, the petitioner arrived and on seeing them together, he got enraged. Later, the deceased was found murdered in the maize field.

The learned Senior Advocate appearing for the petitioner has submitted that but for the 164 Cr.P.C. statement of the aforesaid Manish Kumar, there is no other evidence on record to connect the petitioner with the offence. It has further been submitted that assuming every part of 164 Cr.P.C. statement of aforesaid Manish Kumar to be *ex-facie* correct, he is not a witness to the occurrence of murder. It is only the guesswork of aforesaid Manish Kumar that the deceased has been killed at the hands of her father/petitioner.

What has really made the case suspicious is that if the deceased could be murdered by the petitioner, there was no reason for the petitioner to spare aforesaid Manish Kumar, who was spotted with the deceased by the petitioner. This is one loose end of the case which solicits explanation.



Apart from this, it has been urged that the charges in this case have been framed only in the year 2018, even though the petitioner was arrested on 31.08.2017 and till date, there is no appreciable progress in the trial.

Considering the aforesaid facts, this Court is inclined to release the petitioner on bail, but with the caveat that the petitioner shall participate in the trial in right earnest and will not do anything to delay the conclusion of the trial or to tamper with the evidence. Should he be found doing so, this Court would promptly recall/cancel the order of bail, which is being given in the present case.

For the reasons aforestated, the petitioner, *viz.*, Dani Yadav, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs.25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of Trial Court, *i.e.*, the Court of learned 1st Addl. District Judge, Madhepura in connection with Udakishunganj P.S. Case No. 82 of 2017 (Sessions Trial No. 84 of 2018).

The Trial Court is further directed to proceed



against the petitioner for cancellation of his bail, in case he finds that the petitioner is tampering with the evidence or is trying to delay the conclusion of the trial.

The petitioner shall not absent himself from the trial proceedings for two consecutive occasions without sufficient/plausible explanation.

The bail application is, accordingly, disposed off.

(Ashutosh Kumar, J)

Praveen-II/-

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