

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.63402 of 2018

Arising Out of PS. Case No.-48 Year-2018 Thana- ATHMALGOLA District- Patna

Ashok Rai, S/o Bishwa Nath Rai, Resident of Village-Nayatola Sabnima, P.S.
Athmalgola, Distt.-Patna

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Nawal Kishore Prasad

For the Opposite Party/s : Mr.Sri Lakshmi Kant Sharma

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

10 18-02-2019 Heard learned counsel for the petitioner, learned
counsel for the informant and learned APP for the State.

The petitioner is languishing in custody since 24.03.2018 in a case registered for the offences punishable under Sections 302, 379 and 120B/34 of the Indian Penal Code.

The prosecution case as per the written report of Meena Devi submitted to the Station House Officer of Athmalgola Police Station is to the effect that on 22.03.2018, the husband of the informant, Dharamdeo Rai was being called by Binod Rai, thereafter, both of them went to the house of Bishwanath Rai and there the husband of the informant was killed Binod Rai, Sanjeet Rai, Ashok Rai, the petitioner and Anjali Devi and snatched Rs.1,50,000/- which was kept by the



husband of the informant for giving to someone. It is further alleged that earlier also Binod Rai threatened the husband of the informant, leading to registration of the FIR against four FIR named accused persons and 3-4 unknown. During investigation, it transpired that the victim Dharamdeo Rai had illicit relationship with co-accused Anjali Devi, the wife of Bishwanath Rai, as a result, Dharamdeo Rai was killed and subsequently, the dead body was recovered from the house of Bishwanath Rai.

It is submitted by learned counsel for the petitioner that the petitioner has falsely been roped in the present case simply because he happens to be the son of co-accused Anjali Devi. The FIR suggests the specific accusation and motive only against Binod Rai. Admittedly, there is no eye witness to the occurrence and merely because the dead body of the husband of the informant has been recovered from the joint family house of the father of the petitioner, he has been roped in the present case. The motive also does not appear to be reasonable from the fact that even assuming the subsequent accusation to be true, if co-accused Anjali Devi had illicit relationship with the victim, Dharamdeo Rai then there was no occasion for her to kill the victim. A statement has been made in paragraph 3 of the petition



that the petitioner is not having any criminal antecedent.

Learned counsel for the informant submits that during investigation, a petition was filed by the several villagers to the effect that since the victim, Dharamdeo Rai had illicit relationship with co-accused Anjali Devi and her husband was a disabled person and the sons of co-accused Anjali Devi saw them in objectionable position, hence, they might have killed the victim, but learned counsel for the informant concedes that there is no eye witness to the occurrence.

Learned APP after going through the case diary submits that since the dead body of the victim has been recovered from the joint family house of the petitioner, hence, presumption is that he also participated in the occurrence and moreover, the prayer for bail of co-accused Anjali Devi has been rejected by a co-ordinate Bench of this Court vide Cr. Misc. No. 52750 of 2018.

Considering the fact that there is no eye witness to the occurrence, the FIR does not suggest the accusation of illicit relationship of the victim, Dharamdeo Rai with co-accused Anjali Devi nor any medical examination of Anjali Devi was conducted to corroborate the accusation levelled subsequently through the public petition to the effect that she was found in



objectionable condition with victim, Dharamdeo Rai, hence, family members of co-accused Anjali Devi killed the victim and the fact that investigation has already been concluded, coupled with the statement made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent, let the above named petitioner be released on bail, on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Sub-divisional Judicial Magistrate, Barh, District - Patna in connection with Athmalgola P.S. Case No. 48 of 2018.

(Dinesh Kumar Singh, J)

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