

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.67340 of 2018

Arising Out of PS. Case No.-246 Year-2016 Thana- GOPALPUR District- Bhagalpur

Sunil Sah, Son of Tolki Sah @ Shaligram Sah, Resident of Village- Badi Kakanpur, P.S. Gopalpur, District- Bhagalpur.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. J.N. Thakur, Advocate
		Mr.Amrendra Kumar, Advocate
For the Opposite Party/s	:	Mr.Sri Arbind Kumar Pandey, APP)

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

7 07-02-2019 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner is languishing in custody since 31.03.2018 in a case registered for the offences punishable under Sections 328, 302 and 120B/34 of the Indian Penal Code.

The prosecution case as per the written report of Sanjita Khatoon submitted to the Station House Officer of Gopalpur Police Station is to the effect that on 14.12.2016 at 1.00 P.M., the informant's husband Md. Jamshed conveyed to her through mobile phone that he has been administered poison by co-accused Munil Sah, petitioner Sunil Sah, co-accused Mira Devi and two unknown persons, whereupon, the informant reached to that place, while taking him to hospital with the help of co-villagers, on the way, he died. It is alleged that the



husband of the informant was in business partnership with co-accused Munil Sah and petitioner Sunil Sah. The petitioner had to pay due amount of Rs.3,30,000/- to the husband of the informant but they were not paying the same and for the payment of the due amount, they called the husband of the informant and administered poison.

It is submitted by learned counsel for the petitioner that the accusation is based upon the conversation made through mobile phone by the husband of the informant with the informant but during investigation, the call detail report has not been analyzed. Though, it is claimed by the informant that the husband of the informant conveyed the other persons also about the administration of poison but no such witness has been examined by the investigating agency. It is further submitted that during postmortem no injury has been found. However, from the FSL report it appears that the victim consumed Aluminium Phosphide, commercially known as 'Celphos' which is used for grains preservative. A statement has been made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP after going through the case diary submits that the victim conveyed to the informant through



phone the name of the persons including the petitioner, who administered poison. However, the material in the case diary does not suggest any call detail report to support the claim of the informant that victim conveyed to her the names of the persons, who administered him poison, though, it is claimed by the informant that her husband also conveyed the names of accused to the other co-villagers but their statement has not been recorded by the investigating agency during investigation but since there was business dispute, hence, the suspicion has been raised against the petitioner.

Considering the suspicious nature of accusation, investigating agency failed to analyze the call detail, postmortem report does not suggest any resisting injury and the investigation being 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 Additional Sessions Judge-Ist, Naugachia, Bhagalpur in connection with Gopalpur P.S. Case No. 246 of 2016.

Though, the FSL report was looked into by a co-



ordinate Bench of this Court after opening the seal, it is expected from the office to reseal the same and get the FSL report be transmitted back to the concerned authority.

(Dinesh Kumar Singh, J)

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