

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.69850 of 2018

Arising Out of PS. Case No.-156 Year-2018 Thana- HARNAUT District- Nalanda

Deepak Kumar Son of Jitendra Singh, resident of Village- Dihra Ramsang,
Police Station- Harnaut, District- Nalanda.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Singh, Adv.
For the Opposite Party/s : Mr.Ahmad Ali

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

5 28-01-2019 Heard the learned counsel for the parties.

2. The petitioner seeks regular bail in connection with Harnaut P.S. Case No. 156 of 2018 for the offences punishable under Sections 364, 365, 302, 201, 120(B) & 34 of the Indian Penal Code.

3. The case of the prosecution, as per the informant namely Nitish Kumar, is that his brother Rakesh Kumar had gone from his house to Punjab National Bank, Harnaut Branch on 29.05.2018 for withdrawing money, whereafter he came back to his house at about 2.00 P.M., after noon, at Patel Nagar where Diwakar Kumar alongwith his friends and Gore Lal were present. It is further case of the informant that his brother was taken away towards the station by one Manish Kumar on the motorcycle of his brother, whereafter enquiry was made, upon



which it transpired that at about 4 P.M. in the evening, Diwakar Kumar and Rakesh Kumar (Tinku) had gone to the brother-in-law of Diwakar Kumar, namely, Deepak Kumar, who was working in Railway coach factory, Harnaut and thereafter, Manish Kumar had also come there, but subsequent to that there was no information and the mobile phone of the brother of the informant was not responding and when call was made by the informant, it was found that the said mobile was switched off. It has also been stated that the informant suspects that Manish Kumar has kidnapped his brother Rakesh Kumar with ulterior motive and Chandan Kumar has also helped him.

4. The learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case and is a non-FIR named accused person, who is having a clean antecedent. It is further submitted that a bare perusal of the FIR would show that no allegation whatsoever has been levelled as against the petitioner herein and suspicion has been raised against the FIR named accused persons, namely, Manish Kumar and Chandan Kumar as also one Diwakar Kumar. It is submitted that the name of the petitioner has transpired in the present case on the confessional statement made by the co-accused person, namely, Diwakar Kumar, with



whom the petitioner was having enmity from before on account of the said Diwakar Kumar and the petitioner being brother-in-law of each other and the wife of the petitioner having got share of land by virtue of will executed by one Rajendra Singh, whereas Diwakar Kumar did not get any share. It is the contention of the learned counsel for the petitioner that the petitioner is working in Railway Coach Factory, Harnaut and on the alleged day of occurrence, he was on duty and has got nothing to do with the alleged incident. Lastly, it is submitted that similarly situated accused persons have been granted bail by this Court by orders dated 07.12.2018 and 20.12.2018 passed in Cr. Misc. Nos. 73157 of 2018 and 77034 of 2018.

5. Per contra, the learned counsel for the informant has referred to paragraph no.48 of the case diary and has submitted that from the second house of the petitioner herein and Raushan Kumar, blood stain was recovered by the police as well as from the well, clothes and sleeper were also recovered, which shows the complicity of the petitioner herein in the alleged incident. The learned counsel for the informant has also referred to paragraph-79 of the case diary containing the confessional statement of the co-accused, namely, Diwakar Kumar and has stated that the said Diwakar Kumar has stated in



his confessional statement that there was illicit relationship between the wife of the petitioner herein and the deceased Rakesh Kumar as also the deceased Rakesh Kumar had a bad eye on his daughter i.e. the daughter of Diwakar Kumar, hence, a plan was hatched to kill Rakesh Kumar.

6. In reply to the aforesaid submission, the learned counsel for the petitioner has submitted that the confessional statement made by an accused before the police does not have any evidentiary value and moreover, alleged house is a very old house, in joint possession of the petitioner and his brother Raushan Kumar in which the brother of the petitioner has opened an office of a political party namely, JD(U), as has also been mentioned in the case diary and the petitioner has got no connection as well as the petitioner admittedly, does not stay in the said house, which is a joint family property, hence, any recovery made from the said house cannot be attributed to the petitioner herein. It is also submitted that the co-accused Sonu Kumar, against whom charge sheet was submitted, has been granted regular bail by this Court by an order dated 20.12.2018 passed in Cr. Misc. No. 77034 of 2018 and the case of the petitioner is similar to the said co-accused Sonu Kumar.

7. I have heard the learned counsel for the parties



and perused the materials on record as also the case diary, apart from the FIR and I find that even the informant has suspected the hand of the co-accused persons, namely, Manish Kumar, Chandan Kumar and Diwakar Kumar, however, at the initial stage neither there was any allegation levelled against the petitioner herein nor any suspicion has been raised against him. Upon perusal of the case diary and the materials on record, at this stage the complicity of the petitioner in the alleged murder of the deceased Rakesh Kumar does not appear to be conclusively made out, hence, this Court finds that it would be proper to give the benefit of doubt to the petitioner herein for the purposes of grant of regular bail, hence the present petition is allowed and the petitioner, above named, is directed to be released on regular bail on furnishing bail bonds of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Nalanda at Biharsharif in connection with Harnaut P.S. Case No. 156 of 2018.

(Mohit Kumar Shah, J)

Tiwary/-

U		T	
---	--	---	--

