

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46612 of 2019

Arising Out of PS. Case No.-62 Year-2019 Thana- SAKRI District- Madhubani

DEVENDRA SAHANI @ LAMBU, aged about 30 years (Male), Son of Harihar Sahani Resident of Village - Sakari Purani Bazar, P.S.- Sakri, District- Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Subhash Kumar Jha

For the Opposite Party/s : Mr. Abhay Kumar

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

5 04-12-2019 Heard learned counsel for the petitioner as well as learned A.P.P.

It has been submitted at the end of the petitioner that he is innocent and has been wrongly implicated in this case on mere suspicion. It has also been submitted that the prosecution has tried to hatch up a case against him but the manner under which it has been flashed contradicts each of the circumstance whereupon, the petitioner is entitled for bail.

It has also been submitted that the informant is not an eye witness to the occurrence. Whatever he has stated is based on hearsay. Narayan Sahani who was alongwith the deceased Raja, son of the informant and who had gone to village Tarsarai as a Barati and during course thereof, Raja dashed against the



Scorpio vehicle of the main accused Om Sah whereupon, an altercation took place, did not utter a word against the petitioner save and except, being brother of the bridegroom. He requested the Barati to take food and during midst thereof, the alleged victim Raja disappeared and later on, his dead body was recovered.

It has also been submitted that Om Sah and his driver Gulrej were arrested and during course of their inculpatory extra judicial confessional statement they shown the petitioner having in conspiracy with them and under such conspiracy it has been alleged that the petitioner had offered wine to Raja and then, got him slept over a Thela wherefrom they have lifted Raja and then, he was murdered, is not at all found substantiated from any corner as, the postmortem report did not speak with regard to presence of smell of wine coming out from stomach of the deceased and in likewise manner, Narayan Sahani as well as Suraj Chaudhary, Santosh Sahani have not corroborated the same.

Further more, it has also been submitted that although, from the case diary it is evident, more particularly para-73 that C.D.R. of the mobile number belonging to Om Sah, Gulrej and the petitioner were taken out and after perusal of the same, it is



evident that there happens to be evidence of talk in between Om Sah and the petitioner but the aforesaid call detail is not going to help the prosecution, more particularly in the background of the fact that neither tower location is there nor the aforesaid call details connect the petitioner with the crime. Apart from this, the petitioner has got no criminal antecedent and is under custody since 25.4.2019. It has also been submitted that the charge sheet has already been submitted and so, in the aforesaid facts and circumstances of the case, the petitioner be released on bail.

On the other hand, learned A.P.P. opposed the prayer and submitted that the call detail is indicative of the fact that even after disappearance of Raja they were in direct contract and so, complicity of the petitioner could not be ruled out as, he was keeping minute to minute watch. Although, there happens to be no eye witness so far the petitioner is concerned, though some of the witnesses have seen the deceased being lifted on a Scorpio.

Informant Lal Babu Chaudhary, who happens to be the father of the deceased Raja, has filed a written report on 23.4.2019 disclosing therein that while going to Barati in the evening of 22.4.2019 there was an altercation in between his son Raja Sah and the owner of the Scorpio, namely, Om Sah as, the



motorcycle of the son- dashed against Scorpio and during course thereof, Om Sah threatened of dire consequences after arrival at Tarsarai. It has further been disclosed that after arrival at Tarsarai his son developed stomachache whereupon, his friend Narayan Sahani and Santosh Sahani lied him down on a Thela and then, as instructed by the petitioner, Devendra Sahani, all the members of the Barati have gone to take food. After returning therefrom, they have not seen Raja. It has also been disclosed that at that very time Om Sah and his driver was taking cold drink on a betel shop. From the case diary, it is evident that Narayan Sahani is examined under para-10 as Santosh Sahani under para-11 and save and except the aforesaid piece of material, nothing more has been at their end. Thereafter, the dead body was found within the jurisdiction of the other police station for which another case was instituted. However, the dead body was identified to be that of Raja and then thereafter, all the accused were apprehended and during course of interrogation Om Sah had made inculpatory extra judicial confessional statement under para-47, Gulrej under para-48 and the petitioner at para-55. In all the aforesaid inculpatory extra judicial confessional statement, they have stated that the petitioner Devendra Sahani got the deceased drunk but during



course of postmortem nothing has been found. Apart from this, para-73 is the call detail of all the three accused persons. With regard to Om Sah, dated 22.4.2019 the call having made at 21.56 hours, 22.15 hours, 22.24 hours the location happens to be that of Sakri Yadav Tola but with regard to remaining including that of Gulrej as well as the petitioner, there happens to be no location specified and that being so, on that score alone when, the major plank of intoxication is not at all found substantiated from the postmortem report did justify the prayer for bail of the petitioner, whereupon the petitioner, Devendra Sahani @ Lambu, is directed to 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 the Chief Judicial Magistrate, Madhubani in Sakri P.S.Case No. 62/2019 corresponding to C.R.I.Case No. 689/2019.

(Aditya Kumar Trivedi, J)

Surendra/-

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