

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58875 of 2019

Arising Out of PS. Case No.-403 Year-2017 Thana- RAMNAGAR District- West Champaran

Md. Kadir, Son of Chulhai, Resident of Village - Sugiya Katsari, P.S.-
Sheohar, District- Sheohar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ashhar Mustafa

For the Opposite Party/s : Mr.Ajay Kumar Jha

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 16-11-2019 Heard learned counsel for the petitioner, learned
counsel for the informant and learned APP for the State.

The petitioner is apprehending his arrest in a case registered for the offences punishable under Sections 302 and 201/34 of the Indian Penal Code.

The prosecution case as per the written report of Md. Mokhtar Alam @ Makik submitted to the Station House Officer of Ramnagar Police Station is to the effect that on 26.10.2017 at 12.00 P.M., the son of the informant namely, Md. Mubarak Hussain went to settle the debt dispute with his in-laws with the principal accused Kaushal Kumar Rai on a motorcycle. The informant's son in the evening at 7.00 P.M. informed the informant that he will return on next day, however, he did not return. On next day at 27.10.2017 at 2.00 P.M. the victim called



his wife and inquired about the well being of his daughter and started wiping and then the call was disconnected. On 29.10.2017, informant received information that his son died in a train accident. Thereafter, the informant and others reached Ramnagar Police Station on 30.10.2017 at 5.00 A.M., when they found the dead body of his son lying in an auto rickshaw and subsequently, the dead body was identified. It is further alleged that mobile phone and wrist watch were recovered from the dead body. The informant conveyed that the recovered mobile phone does not belong to him, leading to registration of the FIR against co-accused Kaushal Kumar Rai and others. Though the petitioner was not named in the FIR but the name of the petitioner sprang up, as during investigation, it was found that he had talked with victim on 26.10.2017 and 27.10.2017.

It is submitted by learned counsel for the petitioner that the petitioner has falsely been implicated in the present merely on the basis of suspicion. Though the investigation in first round has been concluded wherein only co-accused Kaushal Kumar Rai has been charge sheeted whereas the investigation has been kept pending against the petitioner. It is further submitted that the petitioner is the driver of Aftab Alam, who has been granted anticipatory bail by a Co-ordinate Bench



of this Court vide Cr. Misc. No. 67486 of 2018. The only material collected against Aftab Alam during investigation was that he only talked with the victim but he also talked with one Anjali Kumari who was also on telephonic conversation with Kaushal Kumar Rai, the main accused, who has been charge sheeted. Hence, the case of the petitioner is on a better footing. 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 as well as learned APP after going through the case diary submit that the petitioner had conversation through mobile phone with the victim prior to his death and hence, there is circumstantial evidence against the petitioner and investigation is still pending against him. Moreover, it is submitted by learned counsel that Anjali Kumari has been granted regular bail vide dated 05.07.2019 passed in Cr. Misc. No. 29750 of 2019.

Considering the suspicious nature of accusation coupled with the statement made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent and the fact that co-accused Aftab Alam against whom only material was collected that he talked with the victim through mobile phone and he also had a conversation through mobile phone



with co-accused Anjali Kumari and she talked with main accused Kaushal Kumar Rai, let the above named petitioner be released on anticipatory bail in the event of arrest or surrender before the learned Court below within a period of twelve weeks from today, on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Sub-divisional Judicial Magistrate, Bagaha, West Champaran, Bettiah in connection with Ramnagar P.S. Case No. 403 of 2017, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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