

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65671 of 2019

Arising Out of PS. Case No.-187 Year-2018 Thana- PIYAR District- Muzaffarpur

MD. AKBAR S/O Md. Manzoor R/O village- Bangra, P.S.- Pear, Distt.-
Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Prabhat Kumar

For the Opposite Party/s : Mr. Ram Sumiran Rai

CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL ORDER

3 03-12-2019 Heard learned counsel for the petitioner as well as

learned Additional Public Prosecutor for the State and learned

counsel for the informant.

The petitioner seeks pre- arrest bail in connection with

Pear P. S. Case No.187 of 2018 registered under Sections 302,

201, 120-B of the Indian Penal Code.

It is contended by the learned counsel for the

petitioner that the entire allegations made in the first

information report are false and fabricated. Initially, a complaint

was filed on 28.08.2018 with respect to an occurrence of

offence, which is alleged to have taken place on 06.07.2018.

In the complaint itself, the complainant has stated that

he received a call on 06.07.2018 at 10.00 A.M. from Achhalda

Police Station and reached Achhalda on 07.07.2018 at 12 O'



clock in the noon and identified the amputated body of his son.

As a matter of fact, the body was found lying between Pole No.1120/17 to 1120/19 situated in the route of Achhalda-Samho Railway Station. The local police prepared the inquest report and *Panchnama* in presence of independent witnesses. The post mortem examination was also done. However, a belated complaint was filed in the court of Chief Judicial Magistrate, Muzaffarpur alleging that the co-accused Jai Shankar Kumar, Vijay Kumar Sahni and Dhiraj Sahni took the son of the complainant to Delhi on 16.06.2018. In any case, since the occurrence is alleged to have taken place at Achhalda within the territorial jurisdiction of Auraiya District in Uttar Pradesh, the institution of the complaint at Muzaffarpur is bad in law. He has contended that a case of accidental death has been converted into a case of murder by the complainant and without appreciating the facts and circumstances of the case, the learned Magistrate referred the complaint to the police for investigation in exercise of power conferred under Section 156(3) of the Cr.P.C. pursuant to which the first information report has been instituted.

Per contra, learned counsel appearing for the informant submitted that the delay was caused in institution of



the complaint as the informant was busy in inquiring the matter as to how his son died. He contended that the informant had gone to Achhalda on receiving the call and since the offence of murder was given the colour of accidental death, the complainant came back and filed the case at Muzaffarpur. According to him, the Court at Muzaffarpur also has territorial jurisdiction.

Considering the delay caused in filing the complaint, the submissions advanced on behalf of the parties and in the facts and circumstances of the case, in the event of arrest or surrender before the court below, the petitioner named above are directed to be released on bail on furnishing bail bond of Rs.10,000/- (Rupees ten thousand) each with two sureties of the like amount each to the satisfaction of Sri P. K. Mehta, Judicial Magistrate, 1st Class, Muzaffarpur in connection with Pear P. S. Case No.187 of 2018, subject to the conditions as laid down under Section 438 (2) of the Code of Criminal Procedure.

(S. Kumar, J)

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