

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72292 of 2019

Arising Out of PS. Case No.-151 Year-2019 Thana- HAJIPUR SADAR District- Vaishali

KAILASH RAI Son of Late Ram Jatan Rai Resident of Village-Subhai South,
P.S-Hajipur Sadar, District-Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mukesh Kumar, Adv.

For the Opposite Party/s : Mr.Akshay Lal Pandit, A.P.P.

CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL ORDER

3 18-12-2019 Instant petition under section 438 of Criminal Procedure Code has been moved for grant of anticipatory bail in Hajipur Sadar P.S. Case No. 151 of 2019 dated 13.3.2019 registered under Sections 302, 201/34 of the Indian Penal Code.

I have heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State. I have also perused the relevant record of the case, necessary for adjudication of this petition.

It is the case of the prosecution that two days prior to the recovery of the dead body, the present accused along with Santosh Lal had asked the informant to send his son, i.e. the deceased, for labour work. This was on 11th March, 2019, at about 8:00 a.m. Two days thereafter the dead body of the deceased was found at an open place. On suspicion, the accused



bail applicant was arrested on 28th of July, 2019.

According to the accused, the deceased was in the habit of consuming Alcohol and as on date the report of viscera is awaited.

Be that as it may, from the record it cannot be inferred that the accused called for the deceased with an intent of murdering him. Well, that is what can be inferred from the investigation conducted thus far. Noticeably, the father of the deceased did not express any apprehension of the deceased being called by the accused at an unknown place for commission of the crime. There is no prior animosity. Also no motive of death appears to have been unearthed thus far. No recovery linking the accused to the object with which the death took place stands effected from the accused or from any other place either on his asking or information furnished by a third person. Also on the dead body no marks of external injury were found.

It is submitted by learned counsel for the petitioner that the petitioner has roots in the society; is not likely to interfere in the investigation or influence any of the witnesses or destroy the evidence; is behind bars since 28.7.2019; no further custodial interrogation is required and he has fully cooperated in



the investigation.

Prima facie, nothing is produced to highlight petitioner's direct involvement in the crime.

Thus, this Court is of the considered view that petitioner has made out a case for grant of bail. Possibility of false implication, as is so alleged by the petitioner, cannot be ruled out. Also, thus far save and except for naming the petitioner in the F.I.R., no evidence corroborative in nature stands recorded by the police. Also, none has come forward to highlight the possible involvement of the petitioner in the crime. On what basis the Investigating Officer could link the accused to the crime is also not emanating from the record.

Be that as it may, having regard to the entirety of the facts and circumstances of the case, let the petitioner, named above, be released on bail on furnishing bail bond of Rs. 25,000/-(Twenty five thousand) with two sureties of like amount each to the satisfaction of learned Chief Judicial Magistrate, Vaishali at Hajipur, in connection with Hajipur Sadar P.S. Case No. 151 of 2019, on the following conditions:-

(i) That one of the bailors of the petitioner shall be his close relative.

(ii) That the petitioner shall not indulge in any similar



offence till conclusion of the trial.

(iii) That the petitioner shall remain physically present in court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reason, his bail bonds shall be liable to be cancelled by the learned court concerned.

(iv) The petitioner shall cooperate with the investigation, if not already concluded, and make himself available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

Any observation made herein shall not be construed to be an expression on the merits of the matter.

Petition stands disposed of in the above terms.

(Sanjay Karol, CJ)

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