

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8183 of 2020

Arising Out of PS. Case No.-85 Year-2018 Thana- PUSA District- Samastipur

Vikas Kumar @ Baiju Sah Son of Surendra Sah Resident of Village -
Morsand Birouli Chowk, Gokhala Tola, P.S. - Pusa, District - Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner	:	Mr.Sanjay Kumar No 7, Advocate
For the State	:	Mrs.Gulnar Begum, APP
For the Informant	:	Mr. Choudhary Shyam Nandan, Advocate

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

6 07-09-2020 The Court proceeding has been conducted through
virtual mode.

Heard learned counsel for the petitioner, learned
APP for the State and learned counsel for the informant.

The petitioner is languishing in custody since
03.11.2018 in a case registered for the offences punishable
under Sections 363 and 364 of the Indian Penal Code.
Subsequently, Sections 302/34 of the IPC were also added,
hence, the prayer for bail has been made through the present
application.

The prosecution case, as per the written report of
Brijkishore Sah submitted to the Station House Officer, Pusa



Police Station, is to the effect that the son of the informant, Deepak Kumar, aged about 15 years, had gone to newly constructed house on 09.09.2018 at 8.00 P.M. for giving food to his uncle Vikas Kumar, the petitioner and while returning, on the way unknown persons kidnapped the son of the informant. During search, the mobile phone of the victim was found switched off. During investigation, the petitioner confessed his guilt and subsequently, dead body of the victim was recovered on the statement of the Chaukidar.

It is submitted by learned counsel for the petitioner that the petitioner is own brother of the informant and at belated stage, the petitioner has been roped in the present case, as even no suspicion has been raised against the petitioner in the FIR and he has been roped in the present case as the informant wants to grab the property of the petitioner. The informant claims the victim's age 15 years when the FSL report suggests that the viscera has been transmitted of the person aged 50-55 years. Since no injury has been found on the body of the victim and hence, the cause of death has not been ascertained. Moreover, co-accused Lalan Kumar Paswan, whose name also transpired during investigation on the basis of call detail report which suggests conversation between the petitioner and said Lalan



Kumar Paswan at the time of the occurrence and on his confession, lunch box of the victim boy was recovered, has been granted bail by Co-ordinate bench of this Court vide order dated 11.07.2019 passed in Cr. Misc. No. 20145 of 2019 and investigation has already been concluded.

Learned APP for the informant and the State submit that the petitioner's name sprang up during investigation, the dead body of the victim was recovered on the statement of Chaukidar and petitioner has confessed his guilt with regard to killing of the victim, moreover, four witnesses have been examined during trial.

Considering the fact that except the confession of the petitioner there is no material on record to corroborate the accusation, the FSL report suggests the age of the person, whose viscera has been transmitted as 50-55 years when admitting the age of the victim is 15 years, the cause of death has not been ascertained due to finding of decomposed body and the co-accused, whose name sprang up during investigation, has been granted bail, let the petitioner above named be released on bail for the present provisionally for a period of three months on furnishing one surety to the satisfaction of the learned IIIrd Additional Sessions Judge, Samastipur in connection with



Sessions Trial No. 568 of 2019, arising out of Pusa P.S. Case No. 85 of 2018.

However, in view of the present pandemic COVID-19, it will be open for the learned Court below to accept the bail bond upon furnishing an undertaking by the surety, on photo copy of his Aadhar Card, to the effect that he is ready to become the bailor of the petitioner which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional bail of the petitioner will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10000/- (ten thousand) with two sureties, including one surety given at the time of provisional bail, of the like amount each to the satisfaction of the learned IIIrd Additional Sessions Judge, Samastipur in connection with Sessions Trial No. 568 of 2019, arising out of Pusa P.S. Case No. 85 of 2018.

The learned Court below is at liberty to further extend the period of provisional bail if the court proceeding in physical mode will not resume in next three months.

The learned trial Court will be at liberty to cancel the bail bonds of the petitioner, if the petitioner defaults for



three consecutive occasions during trial.

Accordingly, the application stands disposed of.

(Dinesh Kumar Singh, J)

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