

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.6143 of 2020**

Arising Out of PS. Case No.-38 Year-2019 Thana- KUMAR KHAND District- Madhepura

Md. Firoz @ Sakim, Son of Md. Rahman, Resident of Village and P.O.-
Rahta, P.S.- Kumarkhand, Dist.- Madhepura.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Uday Chand Prasad,, Advocate

For the Opposite Party/s : Mr.Narsingh Tanti, Advocate

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

4 05-06-2020 This application has been placed for consideration by

the order of the Hon'ble the Chief Justice through virtual court
proceeding.

Heard learned counsel for the petitioner and learned
A.P.P. for the State.

Petitioner in the present case is seeking regular bail in
connection with Kumarkhand P.S. Case No. 38 of 2019
registered for the offences punishable under Sections 302, 201
and 376(D)/34 of the Indian Penal Code.

Learned counsel for the petitioner submits that
altogether five members of the family of the petitioner including
this petitioner have been made accused in this case because of
admitted land dispute. Learned counsel submits that in the First



Information Report the informant has stated that at about 8.00 P.M. in the evening her daughter (deceased) had made a call on the mobile number of her mother and she had disclosed that the family of Md. Rahman had surrounded her and had expressed her apprehension that she may be killed but when the CDR of her Mobile was obtained by the Investigating Officer no such call has been noticed and that falsifies the very basis of the informant to name the entire family of this petitioner in the present case. The call details rather show that the victim had talked to her husband in between 18.09 hours to 18.12 hours.

Learned counsel submits that there is no eye witness to the alleged occurrence and in the impugned order itself the learned Sessions Judge has recorded that the chargesheet has been submitted under Section 302, 201/34 of the Indian Penal Code even though the case was earlier registered under Section 302, 201 and 376 (D)/34 of the Indian Penal Code.

Learned A.P.P. for the State has though opposed the prayer for regular bail of the petitioner, however, on query made by this Court learned A.P.P. has categorically stated that in course of investigation the call details of the mobile number of the deceased did not show any call made from her mobile to her mother.



Considering the facts and circumstances of the case, particularly the material coming before this Court in which the CDR of the mobile number of the deceased does not show any call made from her mobile to the mobile number of her mother at 8.00 P.M. as has been claimed by the informant and the same has been made basis of giving the name of the petitioner in the present case as a suspect, there being no eye witness to the alleged occurrence and the petitioner has remained in custody since 01.07.2019, investigation against him is complete and there is no submission on behalf of the State that his release at this stage is in any way likely to interfere with the course of trial or tamper with the evidence, let the petitioner above named be released on bail in connection with Kumarkhand P.S. Case No. 38 of 2019 on furnishing of bail bond of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Sub Divisional Judicial Magistrate, Madhepura, subject to the condition as laid down under Section 437 (3) Cr.P.C. as under :

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of



the commission of which he is suspected, and

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that he will abide by and observe the guidelines and directives of the Government of India and the State Government with regard to COVID-19 Pandemic during the lockdown period. The authorities concerned shall take appropriate steps to ensure such observance prior to and after release of the petitioner.

This application is allowed.

(Rajeev Ranjan Prasad, J)

vats/Rajeev

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

