

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8528 of 2020

Arising Out of PS. Case No.-100 Year-2019 Thana- PRATAPGANJ District- Supaul

MD. ALI SHER, aged about 25 years, Male, Son of Md. Navir Resident of
Village - Narhaiya, Ward No. 01, Police Station - Chhatapur, District - Supaul.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Arun

For the Opposite Party/s : Mr. Ajay Kumar

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

4 08-06-2020 Heard learned counsel for the petitioner as well as
learned A.P.P.

While the prosecution party were in a way to Mela, they were waylaid and then, the female were subjected to rape deprivation of the belongings and on protest Kanchan Devi was shot at, who during course of treatment, died. It has further been disclosed that just before the present occurrence the same set of accused also looted away his co-villager Sandeep Kumar, his nephew (Bhagina) Ganesh Kumar, Prem Kumar.

Learned counsel for the petitioner has submitted that the F.I.R. has been registered against unknown. No T.I.P. has been conducted. The name of the petitioner has cropped up on inculpatory extra judicial confessional statement of Md. Ayub and that being so, could not be used against the petitioner. Apart



from this, it has also been submitted that even as per their inculpatory extra judicial confessional statement the petitioner was not present at the place of occurrence during course of commission of the crime. The petitioner is under custody since 13.10.2019 having clean antecedent as per para-3 of the petition.

Learned A.P.P. opposed the prayer and submitted that though there happens to be some slackness at the end of the I.O. in not getting the petitioner and other co-accused on T.I.P. but the circumstantial evidence which has been collected during course of the investigation is found sufficient to substantiate the complicity of the petitioner with the alleged crime. Accordingly, the prayer for bail may be rejected.

After perusal of the case diary, it is evident that the call details have been procured with regard to looted mobile number and as per para-17, the same has been duly procured followed with para-36 and then, as per para-43, it has been informed to the I.O. regarding use of mobile No. 7295091213 (one of the looted mobile) by Md. Ayub, who was apprehended (para-48) and from his possession one of the looted mobile number belonging to Ganesh Kumar has been recovered and for that seizure list has been prepared. On interrogation, he made inculpatory extra judicial confessional



statement (para-50) giving minute to minute details how they involved and part played by Ali Sher (petitioner), who was apprehended and as per para-53, on search from his possession one purse of black colour, cash appertaining to Rs.750/- and photo copy of Aadhar Card belonging to Prem Kumar and Mahesh Kumar, the motorcycle, which was used during course of commission of the crime have been seized. There happens no explanation at the end of the petitioner how the aforesaid documents of the respective victims have been recovered from his possession. The call details relating to inter se conversation has also been procured and detailed under para-187 depicting active involvement of the petitioner alongwith others at the time of commission of the occurrence. Under para-3 of the bail petition, there happens to be specific disclosure that the petitioner has got no criminal antecedent while para-191 of the case diary the criminal antecedent of the petitioner is there. The cumulative effect does not justify bail.

Consequent thereupon, the prayer for bail of the petitioner is rejected.

(Aditya Kumar Trivedi, J)

Surendra/-

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