

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 8490 of 2020

Arising Out of PS Case No.-140 Year-2019 Thana- BARIYARPUR District- Munger

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Dilip Mandal, aged about 45 years, Male, Son of Umesh Mandal, Resident of
Village - Nadia Tola, P.S.- Bariarpur, District- Munger.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anurag Saurav, Advocate

For the State : Mr. Ram Bilash Roy Raman, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH
ORAL JUDGMENT

Date : 11-06-2020

The matter has been heard *via* video conferencing due
to lockdown imposed on account of the COVID-19 pandemic.

2. Heard Mr. Anurag Saurav, learned counsel for the
petitioner and Mr. Ram Bilash Roy Raman, learned Additional
Public Prosecutor (hereinafter referred to as the ‘APP’) for the
State.



3. The petitioner is in custody in connection with Bariyarpur PS Case No. 140 of 2019 dated 07.09.2019 instituted under Sections 364/34, 302 and 201 of the Indian Penal Code.

4. The allegation against the petitioner and four others is initially of abducting the son of the informant and thereafter killing him and throwing the body in the Ganges river.

5. Learned counsel for the petitioner submitted that there is no recovery of the body. It was further submitted that only on the confessional statement of co-accused Birbal Mandal, the petitioner has been implicated. Learned counsel submitted that thereafter the police have extracted confession from the petitioner also, but the same is not admissible as evidence. Learned counsel submitted that though in the confessional statement of co-accused Birbal Mandal, it has been said that the deceased Ravi had enmity with Dhiraj Mandal and Modi Mandal, who are also co-accused, and specifically that the deceased had informed the police about the liquor business of an acquaintance of co-accused, leading to it being seized by the police, but the mother of the deceased i.e., the informant, has denied the same in her restatement to the police. Learned counsel submitted that the petitioner is in custody since 20.09.2019, having no criminal antecedent.



6. Learned APP, from the case diary, submitted that during investigation it has come, as per the confessional statement of co-accused Birbal Mandal as also Modi Mandal and the petitioner, which the independent witnesses i.e., villagers have also corroborated, that co-accused Dhiraj Mandal, Modi Mandal and the petitioner were at the river on the fateful night at 11.00 PM and the petitioner was shouting that his friends were drowning. Learned counsel submitted that as far as presence of the petitioner at the river at 11:00 PM is concerned, there cannot be any good reason for the petitioner and the other two co-accused to be present at the river or taking a dip in the river. Further, it was submitted that the informant stating that the deceased had not informed the police with regard to any liquor, which was caught, learned counsel submitted that the same is immaterial as the deceased would not have told his mother with regard to what he had informed the police and, thus, the mother's statement in no way contradicts the confession made by co-accused Birbal Mandal. It was further submitted that sufficient motive has been shown in the confessional statement which clearly establishes the direct complicity of the petitioner in the crime.



7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to enlarge the petitioner on bail.

8. Accordingly, the application stands dismissed.

9. However, the Court below shall expedite the trial.

(Ahsanuddin Amanullah, J.)

P.Kumar/Anand Kr.

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